The
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VOLUME V.

THE SOLICITORS' JOURNAL.

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CURRENT TOPICS.

The proceedings which Mr. T. B. Saunders, Equity Draftsman and Conveyancer of London, and Magistrate for the County of Wilts, has instituted at Road, in relation to the late mysterious murder in that locality, seems to have little other practical effect than the demonstration in the face of the whole country of the incompleteness of our present system for the detection of crime. It has been well remarked that the inquiries into the Road murder "have gradually assumed so singular a complexion that they are now almost as unexampled in character as the crime itself." Resort has been had but without success to the aid of the coroner—that most ancient and constitutional officer. The more modern, and as the phrase goes, less English, appliances of detective police were next brought into play, with an equal want of result. Next comes the very questionable, private and peculiar investigation conducted by Mr. Slack, a solicitor of Bath, on the authority, however, of the Attorney-General, the issue of which was altogether unfortunate, but by no means owing as it appeared to any want of ability or industry on the part of the gentleman conducting it. And, lastly, comes the public but still more peculiar inquisition of Mr. Saunders—one altogether so anomalous that we refrain from attempting to characterize it. Indeed, it would have been altogether intolerable and would deserve nothing but reprobation, if the public mind was not thoroughly alive to the said defects of our present machinery for bringing criminals to justice. It is a remarkable fact, and one that cannot be too often mentioned by the press of this country, that England is the only civilized country in the world which has no public prosecutor. Considerable discussion has arisen of late between the relative advantages of coroners' inquests and private investigations by officers of the crown, in capital cases. We are so attached in England to old institutions, it is not likely that any one now living will ever see the abolition of the office of coroner, notwithstanding its very partial utility; but a little more experience such as we have had during the last year, will, no doubt, prepare the minds of Englishmen for an addition to the institutions of the country in the shape of a public prosecutor. Such experience as we have recently had, however, shows how utterly inefficient crown counsel would be as prosecutors, without crown solicitors holding appointments in their respective districts—with the duty of instituting on the spot immediate inquiry, and preparing for trial, or, as they say in Scotland, taking the precognitions of witnesses; which, in important cases, might always be at once submitted to the opinion of the Attorney-General. Such a system would not only tend to put a stop to the present immunity of great crimes, as in the case of the Road murder, but would also prevent the possibility of innocent persons being lightly accused of enormous and atrocious crimes.

Mr. Bannatyne, the Dean of the Faculty of Procurators, in Glasgow, has recently delivered to the members of the faculty an address which has been published, and is worthy the attentive perusal of members of the profession south of the Tweed. In it he reviews at some length the alterations which have been made by the recent statute in the educational requirements and preliminary tests of admission into the ranks of attorneys in England. It is gratifying to observe that the tendency of these improvements towards raising the reputation of the general body of English solicitors, not only at home, but in other countries, is so manifest. Mr. Bannatyne strongly urges upon his Scotch brethren the example of the Incorporated Law Society; and calls upon them to substitute effective examinations for mere certificates of attendance on classes, and to extend their curriculum beyond purely legal subjects, so as to ensure, as far as possible, something like collegiate training for their younger members. He proposes, first, that the faculty should postpone for two years the commencement of apprenticeship under the charter, so that no one should be admitted an apprentice until he had attained the age of seventeen years; secondly, the establishment, of a higher standard of education, both for apprentices, and for admission; thirdly, the ascertainment of his educational qualification by *bonâ fide* examinations; and he particularly insists that these examinations should take place not merely at the commencement of the apprenticeship, or upon admission into the profession, but periodically. The Incorporated Law Society of England, after long effort, has succeeded in obtaining parliamentary sanction for the institution of a preliminary test of the competency of persons proposing to become articled clerks; we hope it will now turn its attention to the subject of term or other periodical examinations so as to complete the important work which it has so efficiently commenced.

The following resolution was passed at the Glasgow meeting of the Social Science Conference by the section specially devoted to the subject of general average:—

That the meeting hereby requests the council of the association to assist by their counsels such person or persons as may be approved of by them, in drawing up a Bill, with a view to its being enacted into a law by the legislative authorities of the several nations of the world, which Bill shall define, as clearly as may be, the term "General Average," and describe more or less fully the cases intended to be included within the definition, and which shall also specify the nature of the loss, damage, or expense allowable in general average, and the principle on which the amount of the loss, damage, or expense shall be ascertained; also furnish a rule or rules for ascertaining the contributory values of the interests concerned, and which shall

also contain such matters as the person or persons drawing up the Bill may think it advisable to insert: that upon such Bill being drawn up and printed, copies thereof shall be transmitted to the several chambers of commerce, boards of underwriters, shipowners' associations, and other commercial societies in different parts of the world, accompanied by a copy of this resolution, and a request to them to examine and return the said copies, with such alterations or amendments as they may think proper to make therein, within six months from the time of the receipt thereof; that, upon the return of the said copies, or upon the expiration of the said six months, the said Bill shall be revised by the person or persons drawing up the same, enlightened by the information acquired as aforesaid: that upon the Bill being perfected in the manner aforesaid it be recommended to the legislative authorities of all commercial nations, to enact the same into a law.

We believe that this resolution is now under the consideration of the council of the Association, and that it is likely to be carried into effect without delay.

Some applications have already been made to the Lord Chancellor, under the Chancery Amendment Act of last session, for the liberation of Chancery prisoners. The course of proceeding under the Act is extremely simple and inexpensive. In a short time, no doubt, a Chancery prisoner of long standing will have become a thing of the past.

The Lord Chancellor very nearly met with a serious accident on his arrival in his carriage, at Lincoln's-inn, yesterday morning, where he is in the habit of sitting to hear appeals. His Lordship proceeded in his carriage, accompanied by one of his daughters, and had arrived almost at the entrance to his Court, when one of the horses came violently in contact with a cab, throwing the Lord Chancellor and his daughter out of their seats into the front of the carriage. Fortunately, however, neither were injured, although the concussion was sharp and sudden. The horse was severely wounded, and the event caused no little commotion in the usually serene region of Old Square.

Several members of the Inns of Court Rifle Corps have been engaged during the week in contesting for a prize that has been offered by Mr. S. Warren, Q.C., Master in Lunacy. The prize we are informed is a Whitworth rifle. We are not aware whether the winner has yet been declared.

Parliament was on Tuesday further prorogued until the 3rd of January, but it was not stated that the two Houses are to meet on that date "for the dispatch of business."

THE SOLICITORS' JOURNAL AND THE PROFESSION.

At the beginning of a new volume it may be useful shortly to consider what are the objects of this Journal, and what are the means by which we endeavour to attain them. It has been always one of our chief cares to promote in every way the improvement of the education of the young solicitor, feeling that by this means the profession to which he joins himself will gain from year to year in social position and in influence; so that its services will be better appreciated, and its claims treated with more consideration than they were in times when a respectable professional journal did not exist, and professional organization was almost unknown. It was our conviction at the outset of our labours that society would do justice to the solicitor if only he did justice to himself—if he considered his high position, and his arduous and varied responsibilities, and prepared himself and those who should succeed him in his sphere of duty by the best and most comprehensive education both in legal science and in the knowledge and accomplishments of an English gentleman.

Having in view this ultimate result we should above all things desire that the professional education of the solicitor should not commence at a very early age. We are convinced that the whole body would be benefited by the introduction into it of a greater proportion of members who had gone through the ordinary course of a liberal education at a university. We should wish solicitors to imitate a practice which prevails to a great extent with barristers, and from which the bar collectively derives character and influence. Still we are sensible that the number of graduates who place themselves under articles, although it may from year to year increase, must always continue small. The great majority of the profession will always be compelled to prepare themselves to earn a livelihood at an earlier age than is consistent with the carrying out of that wide and deep plan of education which may be accessible to the select few. But we would earnestly deprecate the placing of mere boys in a solicitor's office, in order that they may have passed through the appointed course of preparation, and may claim admission as practitioners on the very day they attain twenty-one years of age. If a lad is articled at sixteen he will absolutely waste two years which might have been spent to profit at some school or college. It is true that by good abilities and industry such a lad may make himself a sound lawyer and a skilful man of business, but his knowledge of law will be confined within the region of narrow technicalities, and the general power of his mind will be stunted for want of a wider field of exercise. Both within the circle of his professional labours and beyond it, he will find—except in some rare instances which are common to both branches of the profession—throughout even the longest and most successful life, that there is one thing wanting which he might have secured for himself in early life, but in his later and perhaps not unprosperous years, neither industry nor mental vigour can easily supply. If such a man had sons whom he destined to his own profession we are certain that he would feel convinced by his own mature experience of the soundness of our views upon the subject of the education of solicitors.

And if we have desired to see the solicitor come to his labours well prepared, we have also sought to secure for him a fair field where he might labour to the best advantage; and while serving the community effectually might be protected in his own just rights. With this object we have watched and recorded the transactions of the societies whose function it is to promote judicious law reforms, and to deprecate, and if possible to arrest, hasty and ill-considered innovations. On all occasions when changes of law and practice have been proposed, we have exhorted the profession to consider, first, that the interest of all its members, both in town and country, was one and indivisible; and, secondly, that this same single interest would be found in the long run to be identical with that of the whole community. If any project of law reform, from whatever quarter, be tried candidly and deliberately by the test of its general public value, the conclusion thus obtained may be acted on fearlessly and unreservedly; and the end which we have proposed in our discussions has been to attain, if possible, to such conclusions. We believe that in Parliament it begins at last to be understood that the conduct of the Law Societies, in reference to proposed legislative changes, is guided by a sincere desire to promote the simplicity of the law, and to ensure the efficiency of its administration. That such has been, as it ought to be, the object of professional organization appeared from the report in our own columns of the proceedings of the Metropolitan and Provincial Law Association lately held at Newcastle. In reviewing the history of the legislation of the present year the Chairman showed that the

efforts of the Association had been so directed as to gain from Parliament a respectful hearing for the collective experience of solicitors on matters which they must necessarily understand far better than any other class of men. Approaching the consideration of every proposed law reform from a public point of view, the Association is entitled in return to claim from Parliament that the same proposals should be looked at also from the peculiar point of view of the solicitor. Those who have prepared themselves by a costly education for the exercise of a laborious profession are entitled to demand that what are called—sometimes very wrongly—law reforms should not be employed as instruments to impoverish and degrade the lawyers. By the exertions of the Law Societies professional rights and privileges are maintained, and the corporate character of a high and responsible profession is kept constantly before its members' minds, so that none are suffered to forget the duties which they owe to their own body, and to that larger society wherein it forms a conspicuous and influential part. We have now observed for several years the operations of the Incorporated Law Society, of the Metropolitan and Provincial Law Association, and of the other similar organizations which exist in large towns and counties. It has been our duty as well as our privilege to report and comment on those operations; and we rejoice to say that they have resulted in equally and largely benefiting at once the client and the solicitor.

It is the business of a professional journal to endeavour to raise the character and social position, to assert the claims, and watch over the interests, of the profession. But another and equally important duty is to assist the practitioner in the daily exercise of his vocation, by promptly noticing, and briefly and clearly explaining, the new statutes and decisions of the courts by which his practice must be regulated, and by endeavouring to furnish him with sound and unbiassed judgments as to the merits of some, at least, of the many legal publications which offer to supply him with fuller and more detailed knowledge than can be conveyed in the columns of a newspaper. In our discharge of this duty, we have endeavoured to make some stand against that prevailing error of the time that the value of every sort of publication is in direct proportion to its length. We have always been sensible that if our readers tried us by the mere number of the words they read, we should be found wanting. We have rather sought to attain, if possible, the praise of judicious selection and condensation. The enormous masses of printed matter which are placed upon the lawyer's table would become an intolerable evil, but for the happy circumstance that he cannot be compelled to read them. Still, if possible, this evil should be resisted by steady adherence to the rule of only noticing what is really new and valuable, and by compressing the notice, whenever possible, in some moderate quantity of words. It has not been, and will not be, our habit to place before our readers heavy masses of undigested verbiage, but to supply to busy men in the shortest compass the practical assistance they require. But while we endeavour to aid the solicitor in his daily routine of duty we would also invite him to look occasionally beyond it. When we say that every lawyer ought to know something of the general science of law and of those great leading principles which underlie all codes and systems of procedure, we are but coming back to the ground from which we first started, and are repeating over again our exhortation to the solicitor to secure for himself, and to those who may follow in his steps, a liberal and comprehensive education. As solicitors gradually learn to feel a deeper interest in the jurisprudence of other times and countries, and in the curious and difficult legal questions which sometimes occupy our own courts, the objects which this Journal has proposed to itself will be to a great extent attained; and we flatter ourselves that it will, at the same time, be seen to have deserved the name it bears.

We have hitherto refrained from noticing the mendacious statements of a legal contemporary, which, from motives of obvious self-interest, industriously seeks to propagate the notion that this journal is the organ and advocate of metropolitan interests, as against those of the country. The fact that we have the warm support of a large number of the foremost men in the profession in the provinces, enables us to pass over such persistent misrepresentations with the contempt which they deserve. Perhaps, we ought to be gratified rather than otherwise at the exhibition of an uneasiness which is, after all, but an unquestionable proof and measure of success.

PROTECTION FROM ARREST.

It may not yet be generally known that during the few remaining days of the last session, after the withdrawal of the Bankruptcy Bill, a short Act, consisting of two sections only, was hurried through Parliament to extend the effect of the 7 & 8 Vict. c. 70. The original Act was passed for the purpose professedly of facilitating arrangements between debtors and creditors; but was familiarly designated by practitioners as "the Gentleman's Act," from the facilities it afforded to persons of sensitive feelings to get rid of their debts without incurring those unpleasant consequences of indebtedness, at the expense of which the discharge is usually purchased, namely, the loss of liberty and property and the publication of the state of their affairs.

This Act enables an insolvent, with the concurrence of one third in number and value of his creditors (testified by their signing his petition), to present a petition to the Court of Bankruptcy, setting forth the particulars of his debts and estate; that he is unable to meet his engagements; and also setting forth such proposal as he is able to make for the future payment or compromise of them, to which one-third in number and value of his creditors have assented. Upon the presentation of the petition one of the commissioners is to examinately *privately* into the matter of it; and for that purpose has power to examine upon oath the petitioning debtor and any creditor concurring in his petition, and any witness produced by the petitioning debtor. Upon this examination of the petition the Court may grant to the debtor a temporary protection from arrest until the further proceedings taken upon the petition, and may, if it think fit, require the petitioner to give bail for his future appearance. The Act strictly applies in its terms only to debtors not in custody at the time of petitioning; and the Amending Act of the last session, 23 & 24 Vict. c. 147, is passed to extend the same powers and privileges to debtors in actual custody.

We conceive that several objections may be made on principle to the extraordinary facilities for obtaining protection given by the provisions of the original Act above referred to, as causing a very unfair and vexatious interference with the regular proceedings of creditors; and that these objections apply with additional force to the extended scope given by the amending Act so hurriedly introduced. It will be observed that the petitioner obtains his protection upon examination of his petition merely. He gives up no property; he need not even, unless the Court requires it, give bail for his future appearance. It is true, he must obtain the signatures of one-third in value of his creditors to his petition; but this is a small proportion, and might, we apprehend, in most cases be supplied from amongst the petitioner's immediate circle of relations and connections; for a party in difficulties generally exhausts his nearest friends before borrowing of strangers. The examination is private; and creditors who do not concur in the petition are not summoned, nor can they be examined upon oath. The insolvent is set at liberty and made a gentleman at large, with full command over

his person and his estate; and it is plain that if he is inclined to any preferential dealing towards particular creditors, or to evade his liabilities altogether, the Act gives him great facilities for so doing.

The subsequent proceedings under the Act provide for summoning all the creditors to meetings to discuss the proposed arrangement of the insolvent, which may be made ultimately binding on the petitioner and all the creditors who have received due notice of the meetings, provided three-fifths in number and value of the creditors or nine-tenths in value or nine-tenths in number where debts exceed twenty pounds shall consent; and thereupon, but not before, all the estate of the petitioning debtor vests in the trustee appointed by the creditors for that purpose. With the ultimate result of the Act we find no ground for exception. The estate of the insolvent in justice belongs to the creditors; and the law affirms their title subject to the reasonable condition of a sufficient majority coming to such an agreement for its realization as they may think proper.

Far different are the provisions of the General Protection Acts applicable to petitions on the part of the insolvent alone unassisted by any of his friendly creditors. Upon the presentation of the petition all the estate and effects of the petitioner forthwith vest in the official assignee, and notice must be given to all the creditors who have the opportunity to oppose the order for protection. The consent of only one-third of the creditors to a proposed arrangement seems a very inadequate ground for placing the insolvent on such a different footing. The smallness of the body of creditors where consent is required gives, it must be feared, a great opportunity for collusion and fraud. The consequences of the Act will probably be often injurious to non-concurring or hostile creditors who are deprived of their rights without any means of opposing and without any equivalent. A creditor may have embarked in costly proceedings against the insolvent which may at the last moment be rendered fruitless by the *ex parte* and private proceedings of his debtor. By the Act recently passed the creditor who has actually got his debtor in custody may be thus deprived of the benefit of all his costs and trouble expended in securing him. We believe that the universal principle on which debtors have been released from arrest is that at least a complete distribution of all their property should be substituted; but the Acts in question suspend the right of the creditor without rendering him any compensation in return.

Arrest and imprisonment for debt are still the law of the land. The expediency of retaining them is one of the most important questions of the day; but we must reserve further notice of it to a future occasion, our present object being restricted to pointing out the inconsisteney, inconvenience, and injustice of retaining them as law, and yet taking every opportunity of getting rid of their effects. The creditor is thus placed without any fault on his part in a position of the greatest embarrassment. He has a right of arresting his debtor to enforce payment; while his debtor has a nearly equal right of protection or discharge from arrest. He fancies that he possesses a powerful instrument of compulsion; but he finds, on attempting to use it, that it recoils on his own head. The pretended right of the creditor is made a mere snare and a delusion; the law offering him a remedy with one hand, which it suddenly snatches away with the other. We had hoped that the legislature had at length determined to treat the law of bankruptcy and insolvency in one grand and complete scheme, and cease from further attempts to patch up the old system, consisting as it does of a mass of statutes the deficiencies of which are confessedly manifest at every point. We venture to surmise, however, that the legislature must arrive at some definite and final intention with respect to the law of arrest, as one of the essential preliminaries of a permanent settlement of the law of bankruptcy and insolvency. Palliative measures of the nature of the Acts above referred to have an unfortunate tendency to perpetuate the cause of the evil, by abating some of its most obnoxious effects, and so obscuring its true character.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

(Before Lord Chief Justice COCKBURN, and Justices WIGHTMAN, HILL, and BLACKBURN.)

Nov. 3.—*Ex parte Watson.*—The *Solicitor-General* moved that an attorney and solicitor of the Court of the County Palatine of Durham might be admitted an attorney of this court, on payment of the duty, without giving a term's notice. The application was made under the provisions of a statute of the last session (the 23rd & 24th Victoria, cap. 127). The learned Solicitor-General referred to the 45th section of the 6th & 7th Victoria, cap. 73, and the case of *Ex parte Patrick*, (13 L. J., Q. B., 90), which he said decided the question.

Mr. *Garth*, who appeared for the Incorporated Law Society, said, the term's notice was not required by statute, but by a rule of Court; and he submitted that the notice should still be given.

The COURT, however, thought otherwise, and granted the application.

In re ——, *an attorney.*—Mr. *Turner* moved, on the part of the Incorporated Law Society, that an attorney should be struck off the rolls for misconduct in applying the money of his client to his own use. The attorney pretended that he had advanced a sum of £100 to a person named Truman at 5 per cent. interest. The interest was paid for some time, but it came to the client's ears that the attorney was in bad circumstances, and this induced her to require him to give up her securities. Not obtaining what she demanded, she required him to state who the man Truman was, upon which he stated that he himself was the man Truman, that he had no securities, but he would endeavour to procure security.

The COURT granted a rule to show cause.

Nov. 6.—*In the matter of Lieutenant Allen.*—Mr. *J. Brown* moved for a writ of *habeas corpus*, to be directed to the governor of the Queen's Prison, commanding him to bring up the body of William Henry Craven Allen, a lieutenant in the 82d Foot, in order to his discharge, upon the ground that he was detained in illegal custody there, under the sentence of a court-martial. The learned counsel stated that his affidavits were entitled "In the Matter of W. H. C. Allen."

Lord Chief Justice COCKBURN, after referring to Master Corner, said the words were surplusage; it was sufficient if the affidavits had the correct title of the court.

Mr. *Brown* then proceeded to state that Lieutenant Allen was a young man, twenty years of age, who was tried by a court martial on the 28th of February, 1859 at Shalychanpore, in the East Indies, for the murder of one Bidasse, his servant. The court-martial found him guilty of manslaughter only, and sentenced him to be imprisoned four years, without hard labour. The sentence was confirmed by the Commander-in-Chief, and Agra fort appointed to be the place of his imprisonment. The Horse Guards, it appeared, had turned that sentence into one of transportation, and had brought him over to this country and subjected him to penal servitude, of which he now complained.

Lord Chief Justice COCKBURN asked whether he understood correctly that a sentence of imprisonment, without hard labour, had been converted into one of penal servitude?

Mr. *Brown* said that was the case.

Lord Chief Justice COCKBURN.—Take a rule to show cause.

Mr. *Brown* said the rule would be on the keeper of the Queen's Prison.

Mr. Justice HILL said it should also be served on the Home-office and Secretary for War.

Rule *nisi* granted.

COURT OF EXCHEQUER.

(Before the LORD CHIEF BARON, Mr. Baron BRAMWELL, Mr. Baron CHANNELL, and Mr. Baron WILDE.)

Nov. 3.—*Fiddey* v. *Oxlade.*—Proceedings were commenced upon a bill of exchange under the provisions of the 18th & 19th of Victoria. The twelfth day falling on a Sunday, judgment was signed on the day previous. An application was made to

Mr. Justice Keating, at chambers, to set aside the judgment on the ground that it had been signed one day too soon. The application proving successful, the plaintiff, an attorney, commenced the present action against the defendant for his costs. The case was sent down by writ of trial to be heard before the Under-Sheriff of Middlesex. The defence was that the plaintiff had been guilty of negligence in signing the judgment a day before the proper time for so doing.

Mr. *Patchett* now moved for a rule for a new trial on the ground of misdirection, the Under-Sheriff having told the jury that there was a decision given by Mr. Justice Erle at chambers (*Lewis* v. *Calor*, 1 Foster & Finlason, 306), by which he felt himself bound to the effect that Sunday should not be included in the twelve days allowed by the Act before signing judgment. Mr. Patchett urged that it was the duty of the attorney to sign judgment at the earliest possible moment, and that in this case there was neither negligence in law nor negligence in fact.

The LORD CHIEF BARON.—If the earliest possible moment involved a doubt, then the safer and better course would be to steer clear of the doubt.

Mr. *Patchett*.—The statute prescribes a time in which judgment is to be or may be signed, and no rule of Court can override the statute; it was a misdirection in telling the jury that judgment was signed too soon.

Their LORDSHIPS granted a rule to show cause.

The Queen has been pleased to confer the honour of knighthood upon Charles Sargent, Esq., Chief Justice of the Ionian Islands.

Mr. Albert W. Beetham, of the Western Circuit, has been appointed to the Recordership of Dartmouth, in the room of Mr. T. W. Saunders, who has been appointed Recorder of Bath.

Mr. William Burridge Richardson, of No. 28, Queen-street, Cheapside, has been appointed a perpetual commissioner for taking acknowledgments of deeds by married women for the cities of London and Westminster, and for the county of Middlesex.

Mr. George Ridley, of the northern circuit, and M.P. for Newcastle-on-Tyne, has been appointed one of the Copyhold Enclosure Commissioners, in the room of Mr. Blamire, resigned. A vacancy in the representation of Newcastle will thus be created.

Mr. R. Earle Welby, of the Treasury, late Secretary to Mr Laing, will continue to act in the same capacity with the Right Hon. F. Peel, who has been appointed Joint Secretary to the Treasury.

The Lord Chief Justice Cockburn has appointed Mr. James Hemp, Deputy Clerk of Assize on the Oxford Circuit, and one of the clerks of arraigns at the Central Criminal Court, to the clerkship of the Court for the Consideration of Crown Cases Reserved, vacated by the death of Mr. Straight.

Recent Decisions.

COMMON LAW.

[*By* JAMES STEPHEN, Esq., D.C.L., *Barrister-at-Law*.]

ACTIONS AGAINST CARRIERS, COSTS IN.

Tatton v. *The Great Western Railway Company*, 8 W. R., Q. B., 606.

Several cases have established that actions against carriers for the non-delivery of goods are based on the wrong committed by the breach of that common law duty, safely to carry and deliver, which is incident to the office of carrier; and are not grounded on any individual contract entered into by the carrier with the consignor or consignee of the goods. In other words, such actions are *ex delicto* not *ex contractu*, and from this fact important consequences arise. Thus the non-joinder of a party jointly liable as defendant, cannot be objected to by plea in abatement or otherwise (see *Pozzi* v. *Shipton*, 8 A. & E. 963). And it appears even to be immaterial with regard to this, that the declaration may show that there was a special contract between the parties in respect of the same transaction; though if such special contract contained terms which would not be implied merely by the relationship of bailor and carrier, then the action may be well brought on such special contract, and in that case would be changed in its character, becoming one of contract (see *Legge* v. *Tucker*, 1 H. & N. 503). The present case shows another important result of the true nature of the ordinary action against a common carrier. This is, that the action is not within that provision of the 19 & 20 Vict. c. 108 (sect. 30), which deprives a plaintiff in an action "of contract," brought to recover a sum not exceeding £20, where the defendant suffers judgment *by default*; It is, on the other hand, within the 13 & 14 Vict. c. 61, s. 11 (being an action "on the case," that is a variety of the general division of actions on torts), and consequently the plaintiff is entitled to his costs on the defendant suffering judgment by default, although a less sum than £20 be recovered.

ATTORNEY AND CLIENT—SIGNED BILL—AGREEMENT TO RECEIVE FIXED SUM FOR SERVICES.

Philley v. *Hayle*, 8 W. R., C. P., 611.

The declaration in this action was for a certain sum alleged to be due from the defendant to the plaintiff on the money counts; and as a defence it was pleaded that the money claimed was due, if at all, to the plaintiff as the defendant's *attorney*, and that no signed bill had been delivered a month before action, as required by the statute.

It appeared at the trial that the plaintiff sought to recover under an agreement into which he had entered with the defendant to endeavour to obtain for him at the sessions a spirit licence, on the terms of receiving (if he succeeded) his costs out of pocket, and a certain fixed sum in addition; if he did not succeed, his costs out of pocket only. A bill *was* delivered before action, but it gave the items only of the sums paid out of pocket by the plaintiff.

The Court of Common Pleas unanimously held this transaction to be illegal, and consequently that the plaintiff could not recover. They said that the policy of the Legislature appeared to prohibit all agreements with clients which would have the effect of giving the attorney more than he would obtain on taxation, though an agreement under which he would receive *less* would be good enough. "The client," said Mr. Justice Willes, "is entitled to have the judgment of the Master upon the propriety of the charges."

These remarks by the Court of Common Pleas are substantially consistent with previous decisions on this subject; although in one case in the Rolls, an agreement by a solicitor to take a gross sum from his client in lieu of costs was held not to be void, though highly inexpedient (*Re Whitcombe*, 8 Beav. 140).

TROVER—MEASURE OF DAMAGES.

Chinery v. *Viall*, 8 W. R., Exch., 629.

This case is an instructive one, and from it two genera principles may be deduced. First, in order to maintain "trover," it is not necessary that the plaintiff should have had the *possession* of the goods when converted, provided the *property* in them had passed to him. Thus, in the present case, A. had sold sheep to B. upon credit, and before the time of payment arrived and while they remained in A.'s possession, he re-sold and delivered them to C. Here A. was held to have *converted* the sheep, just as though, being a pledgee, he had disposed of the pledge. For, said the Court, A., under these circumstances, (there having been no default on the part of the vendee) retained possession of the sheep, not *qua* vendor, but as the agent and for the benefit of B.

2ndly. In case of a conversion of goods, no arbitrary and absolute rule can be laid down with regard to the measure of damages. In many cases no more than the real damage, that is the loss actually sustained, can be recovered (see *Lamond* v. *Davall*, 9 Q. B. 1030: and *Read* v. *Fairbanks*, 13 C. B. 692); although in cases of wilful tort and not for a bare conversion it may be otherwise. The principle to be deduced from the authorities on this subject, is that a plaintiff cannot by suing in trover, instead of in case or other form of action, vary the amount of damage so as to recover more than he is really in law entitled to, according to the true facts of the case and the real nature of the transaction. Hence, in the particular case now under consideration, B. was not held to be entitled to recover from A. the value of the sheep when re-sold to C.; but only such value *minus* the price B. would have had to pay A. on paying for the sheep he had purchased from him.

STATISTICS OF OUR CIVIL COURTS.

The second part of the Judicial Statistics for the year 1859 comprises the returns from all courts exercising a civil jurisdiction. The proceedings in the Court of Queen's Bench on the Crown side are likewise enumerated, and were as follows:—

On Writs of Mandamus—Applications on Affidavit	59
On Quo Warranto—Informations filed	7
On Writs of Habeas Corpus—Applications for Writs	34
On Writs of Certiorari—Writs issued	99
Judgments and Executions	12
On Grand Jury Bills	1
On Informations ex officio	1
On Orders of Sessions—Removed into Queen's Bench	25
On Special Cases from Quarter Sessions (12 & 13 Vict. c. 45)	12
On Special Cases on Proceedings before Justices (20 & 21 Vict. c. 43)	61

The returns of proceedings in the three courts on the Plea side are as follows:—

Nature of the Proceedings.	Total. Process issued.	Total. Matters heard.	Queen's Bench. Process issued.	Queen's Bench. Process issued.	Common Pleas. Process issued.	Common Pleas. Process issued.	Exchequer. Process issued.	Exchequer. Matters heard.	
Writs of Summons issued	86,270		27,853		21,445		36,974		£23,418 18s. 6d.
Writs of Capias	582		224		163		195		
Appearances Entered	32,702		8,341		6,312		9,999		
Judgments	31,818		10,687		6,943		14,188		
Executions	22,678		7,414		3,114		10,350		
Motions for New Trials		531		170		154		207	£19,964 0s. 6d.
Other Special Motions		641		199		223		220	
Hand Motions and on Side Bar Rules	4,196		1,140		775		4,281		
Causes referred to Masters	550		205		84		261		
Total Amount of Fees		£38,902 1s. 0d.	£29,519 9s. 0d.		£19,964 0s. 6d.		£23,418 18s. 6d.		

These returns indicate the continuance of a predilection for the Court of Exchequer; although the causes, viz., a diversity of scales of taxation and fees in the different courts, which originally gained the Court of Exchequer favour with the profession, have ceased to exist. This anomaly shows that the abolition of old rules by no means induces immediately a proportionate result. The *vis viva* and *vis inertiæ* continue to operate long after the extinction of the causes from which they sprang. The possibility of an inconveniently unequal distribution of business in the Irish Courts was guarded against by the Irish Common Law Procedure Act, which directs that the writs should be filed uniformly, according to a certain rotation, in the three courts. The same remedy is open to us if the pressure of business in the Exchequer ever becomes inconvenient. The inequality, however, must finally disappear of its own accord, its cause having ceased to exist. Yet it teaches us that the effects of legal improvements should be estimated with caution, and that time should be readily allowed them to yield their natural fruit. If changes in the law recommend themselves to our understanding, we may rest assured that the realization of their utility is a question of time, and not of intrinsic probability. On the other hand, this preponderance of business in the Exchequer shows that customs and prejudices cannot be disregarded, but must be estimated as facts in all our calculations, and allowances made for them accordingly. Thus, by not tempting the open sea of change, nor by cruising always along a shallow beach, we shall best temper the necessary reforms with a prudent moderation.

The number of suits commenced in the year was less by 16·5 per cent. than the corresponding return for 1858. The following table of causes entered for trial includes among the causes for trial on circuit, 33 suits entered in the Common Pleas of Lancaster, 4 entered in the Court of Pleas of Durham, and 2 issues from the Court of Probate.

No. of Cases.	Total. Westminster.	Total. Nisi Prius.	Queen's Bench. Westminster.	Queen's Bench. Nisi Prius.	Common Pleas. Westminster.	Common Pleas. Nisi Prius.	Exchequer. Westminster.	Exchequer. Nisi Prius.
Entered for trial	2,909	1,180	741	478	588	194	700	508
Trials	—	807	—	329	—	128	—	350
Defended	965	—	358	—	280	—	327	—
Undefended	167	—	21	—	64	—	82	—
Withdrawn, Struck out, &c.	832	205	299	85	240	38	293	82

As to the nature of the suits, the numbers of a few species only need be stated, the rest being of the more usual character of suits. For compensation for personal injuries under Lord Campbell's Act, the number of suits was 19; for compensation for other injuries, 71; for infringement of patents, 19; for breach of promise of marriage, 22; for libel, 45; for slander, 60; for malicious prosecution, 7; false imprisonment, 72; indictments, 15; and against sheriffs, 5. The number of suits tried on the circuits was, on the Home Circuit, 277; Midland, 120; Norfolk, 49; Oxford, 143; Northern, 132; Western, 135; South Wales, 33; North Wales, 35; Lancashire Common Pleas, 265; Durham Common Pleas, 30. The judgments were as follows:—

	Total.	Queen's Bench.	Common Pleas.	Exchequer.
On Judges' Orders:—				
For default of service	1,858	485	496	877
On affidavit of service	21,676	7,055	4,662	9,959
On Demurrers:—				
For plaintiff	22	10	4	8
For defendant	15	5	5	5
On Postea Writ of Trial and Writ of Enquiry:—				
For plaintiff	1,517	510	367	640
For defendant or nonsuit	392	131	90	171
By Default for Plaintiff	3,280	992	759	1,529
On Non Pros. for Defendant	138	59	40	39
On Special Cases:—				
For plaintiff	12	7	2	3
For defendant	18	13	2	3
On Judges' Orders to stay Proceedings:—				
Warrants of attorney, certificates of arbitrators, &c.	2,690	1720	516	954
Total Judgments	31,818	10,687	6,943	14,188

It is remarkable, that of the immense business of this great commercial nation, so small a proportion gives rise to litigation, and that even in the past year, notwithstanding a probably larger amount of commercial transactions, there has been less litigation in the superior civil courts than occurred in 1858.

It is also curious to observe the proportion of litigated cases abandoned by defendants. The proportion of undefended actions was 72·7 per cent.; of the actions defended only 13·5 per cent. were entered for trial: and of the total of the suits commenced, only 2·2 in the 100 were actually tried; and even of these, many, as the report states, were undefended at the hearing. The business is, perhaps, more equally distributed among the circuits than is generally considered. It appears, also, that the Northern is not, as is commonly supposed, the most favoured in this respect. This approximately equal distribution of business among the circuits is a great public benefit, as it tends to an equal diffusion of forensic talent.

The following statement of the results of the cases comprises all tried at Nisi Prius, including those tried in the Common Pleas Courts of Lancaster and Durham.

	Total.	Queen's Bench.	Common Pleas.	Exchequer.	Nisi Prius.
Verdict for plaintiff	1,145	247	244	281	673
Verdict for plaintiff, subject to special case	30	6	5	6	13
Verdict by consent with reference	119	28	11	9	71
Verdict for defendant	343	71	59	68	145
Jury discharged without verdict	28	7	12	6	3
Juror withdrawn	68	10	4	11	43
Nonsuit	80	10	8	28	34
Stet Processus, Venue changed, Record withdrawn, &c.	129	—	1	—	128
Total	2,242	379	344	409	1,110

The proportion of the writs of summons issued was in the Queen's Bench 32·3 per cent., in the Common Pleas, 24·8 per cent., and in the Exchequer, 42·9 per cent. The averages in the different courts tend to an equality, as to trials; the proportion of causes tried being for the Queen's Bench 33·5 per cent., Common Pleas, 30·4 per cent., and Exchequer, 36·1 per cent. The diversity of the averages, however, again, of course, appears on the judgments, the proportion of these being for the Queen's Bench 33·6 per cent.; Common Pleas, 21·8 per cent., and Exchequer, 44·6 per cent. Verdicts were obtained for amounts above £5,000 in 11 cases; for £20 and under the number was 341. The total amount recovered was £324,388. The total of writs of *fieri facias* was 14,052; of *capias ad satisfaciendum*, 8,142; of possession, 583; of *elegit*, 42; of *exegi facias*, 53; of *capias utlagatum*, 6; total of writs of execution, 22,878. The plaintiff thus, it appears, succeeds in more than three-fourths of the actions. This, alone, indicates the non-litigious character of the nation, as it shows that the moving party had, as a general rule, just cause for the suit. If ever international statistics be generally accessible, it will be an interesting study to consider the comparative advance in public morals in different nations, as recorded not only by the number of suits commenced, but also in the number of suits abandoned or perversely litigated. This success of the plaintiff should not, of course, induce any future plaintiff, who may be acquainted with the statistics, to conclude that the chances, like the average, are more than 4 to 1 in his favour. Such an inference would be wholly unwarranted. Statistics are only applicable to general laws, and are useful mainly to the legislator. If an individual could lawfully become the assignee of causes of action, and then litigate by wholesale, general averages might be used by him to estimate the probable profits of his unlimited liability. But, that an individual litigant should calculate his chances of success from judicial statistics would be as rational, as that a patient should estimate the likelihood of his recovery by a comparison of his age with the average duration of human life. Of new trial motions, 103 were refused; in 225 such motions, rules *nisi* were granted; in 96, the rules were made absolute; and in 104, the rules were discharged. Of the 86,270 suits commenced, only 23,762 were cases in which defences were filed; of these, only 3,209 were entered for trial; and of these, only 1,939 were actually tried; so that, as is stated in the report, of the suits commenced, only 2·2 per cent. remained for the decision of a jury. Judgments were also obtained in 31,318 of the cases not so tried, thus forming a proportion of 38·8 to every 100 cases entered. In 22,878 cases, writs of execution were issued in the proportion of 61·4 per cent. against the goods, and 35·5 per cent. against the person of the defendant. As to the proceedings in chambers, the total number of summonses was 41,315. There was but 1 writ of error; and 2 bills of exceptions. Of the proceedings in the Court of Error the number of notices and writs of error was 34; set down for argument, 32; writs affirmed, 11; writs reversed, 2; remanets, 5. Of appeals from the Court in Banco there were notices of appeal lodged, 44; set down for argument, 20; affirmed, 14; reversed, 4; remanets, 5. The amount of the Suitors' Fund was, on the 1st of January, 1859, £38,659 18*s.* 7*d.*, to which was added during the year, £110,650 2*s.* 7*d.*; the total to the 1st of January, 1860, thus being £149,310 1*s.* 2*d.* The amount paid out during the year was £112,286 13*s.* 11*d.* The fees levied by the Common Law Masters during the year was £58,902 1*s.* 0*d.*, of which the sum of £38,057 7*s.* 10*d.* was disbursed for salaries and other like expenses.

The high proportion which the executions bear to the judgments—like the progressional falling away of defendants at the successive stages of the action—is an index of the non-litigious character of the nation, as it shows that the failure to discharge claims arose from an inability, and not a reluctance, on the part of those who were liable. The high proportion of new trial motions to the trials proves either that the litigious number of our countrymen, however inconsiderable, are very litigious indeed, or that these protracted contests were cases in which the legal rights of the parties were really obscure—an inference more in accordance with the other data, and one which we more willingly suggest.

Correspondence.

EQUITY PROCEEDINGS UNDER THE OLD PRACTICE OF THE COURTS.

In proof of the truth of the assertion by a "Solicitor's Clerk" in the *Solicitor's Journal* of the 15th September last, that "the judges were too much in a hurry to get through business to bestow a moment's time on the form (or he may have added the justice) of the order," permit me to mention the following melancholy facts.

A gentleman of Bristol who died in 1824 worth upwards of £800 a year, by his will, duly signed and attested, gave all his real and personal estate to trustees upon trust to pay the income among his seven children, and the survivor, during their respective lives, and then to divide his property among such of his grandchildren as should be then living.

In 1835 a bill was filed in the Court of Exchequer by a member of the family to have the trusts of the will declared by the Court, which bill Lord Abinger dismissed without allowing costs to any party, on the grounds that the trusts of the will could be carried out without the assistance of the Court. However, subsequent suits in chancery were instituted by some members of the testator's family, and even by other

parties who could not by any possibility have any claim to the property; and at the hearing of the cause in 1854, before one of the Vice-Chancellors, he ordered the costs of all the solicitors (thirteen in number), to be paid out of the estate whether their clients had any claim or not (upon which he gave no decision), and to be raised by sale or mortgage of the freehold estates. These costs, amounting to the enormous sum of £7,200 and upwards, were paid out of money raised by a mortgage of the estates, which mortgage was subsequently paid off by a sale of the estates (thus swelling out the costs as much as possible). The sale produced about £11,000, out of which the sum of £2,245 only has been paid into court to the credit of the estate.

The result of the above order has been most disastrous to the testator's surviving son (now upwards of eighty-two), who is the only one of the testator's children who has any children living, and who has not been able to get from the trustees one shilling towards his support for the last two years, and is at this moment dependant on the voluntary contributions of a few benevolent individuals for the maintenance of himself and his two unmarried daughters.

AN OLD SUBSCRIBER.

STAMP ACT—PROOF OF CANCELLATION

The 12th section of the New Stamp Act, 23 & 24 Vict. c. 111, requiring proof of the sixpenny adhesive stamp being cancelled at the time of signing, may, in practice, cause inconvenience. Allow me to suggest, that in order to provide for this the form of attestation should run thus :—

Signed by the said A. B. in my presence, who, at the time of so signing, did write upon or across the stamp his name, and the date of the day, and year of writing the same.

A SUBSCRIBER.

COSTS IN SUPERIOR COURTS.

If an action is commenced and successfully prosecuted in one of the superior courts of law, to recover a debt which is within the jurisdiction of the county court, and the judge at the trial refuses to certify for costs, can the defendant recover from the plaintiff the excess of costs to which he has been put by being compelled to defend the action in a superior court instead of the county court?

If he cannot, what course should he adopt, after service of the writ and appearance entered, in order to stop costs?

A TYRO.

THE COMMON LAW JUDGES' CHAMBERS.

I read "D. A.'s" letter of the 25th of August, and the "Attorney's Clerk's" of the 15th of September, and am surprised nothing further has been suggested on this important subject. I conclude everyone is quite sick of the wretched system, and yet none think it worth while to try to remedy it. It seems to me "D. A.'s" suggestions might safely be carried out, and that he strikes at the root of the evil. The confusion and inconvenience that have been caused by the uncertain and often late attendance of a judge only twice a week, is not all the damage which results from the present system.

ANOTHER ATTORNEY'S CLERK.

CHANCERY JUDGES' CHAMBERS.

I commend to the attention of your readers Sir J. Graham's speech of the 20th of August, in your number of the 25th of that month. It entirely follows out the views so often impressed by your correspondents and in your articles as to the objects and working of the Acts, and shews that the defect arises from the chief clerks doing business for which they are obviously unfitted.

X.

THE COMMON LAW MASTERS.

It was lately proposed in your paper that the common law masters should assist the judges in the disposal of minor summonses. I can safely say that they have very little to do. Master Gordon, of the Common Pleas, has been attending during the vacation, but I heard him say that he was not obliged to stop after one o'clock. I think he came about twice a-week.

A COMMON LAW MANAGING CLERK.

MANOR COURTS.

I return to the Judicial Statistics. Will any one believe that there still exist thirty manor, &c., courts at the present day? But see p. 134, and the business done in some is really important and extensive. What is the use of county courts? What of the superior Courts? If the wretched minor jurisdictions exposed on this page like kites on a barn door as a warning (for nothing else can be meant) are to exist, I cannot see why they are not to be all over the kingdom, and why the old courts of request are not to be resuscitated. I heard of a curious instance of the power of the Vice-Chancellor of Oxford's Court. An undergraduate who had left college had to go there to defend an action. I am told it is a common case—fancy dragging a man from Cornwall to Oxford because he had once been at college! Who knows anything of the Vice-Chancellor's Court at Oxford, and is it to be compared with a court presided over by judges appointed by the Lord Chancellor, and regulated by acts and rules known to all. Did ever any one hear of half the manors having courts? They must be held in pill boxes; and I only account for their existence on the ground that no one is aware of them.

D. H.

The Provinces.

BIRMINGHAM.—Our readers are aware that it is required on the part of the accountants who are entrusted with the preparation of a bankrupt's balance-sheet, that they or their clerks should attend at the office of the official assignee, to obtain access to the books for that purpose; and it is supposed that proper accommodation shall be afforded to them to facilitate their labours. In the case of one of the official assignees of the Birmingham District Court (Mr. Kinnear), however, the personal comfort of the gentlemen engaged in these arduous duties appears to have been overlooked. Frequent complaints having been made to the Commissioner as to the want of accommodation for the preparation of bankrupts' balance-sheets in that gentleman's office, and it having recently been represented to the court, that a clerk to an accountant was lying in a dangerous state from the effects of the dampness of the office, Mr. Registrar Waterfield directed his usher to obtain the report of a surgeon on the condition of the place. A surgeon was accordingly employed, and having gone through the cellars (for they cannot be otherwise designated). fitted up as offices, reported that "they were not fit for human beings to sit in." The Commissioner, upon hearing this statement, immediately made an order for the books of the bankrupt by whom the complaint was made to be given up to him, so that he might prepare his balance-sheet elsewhere, and not injure his health.

At a private meeting of the town council, held on the 2nd inst., a decision was come to in favour of electing Mr. Arthur Ryland mayor for next year, the present mayor having declined to accept office a second time, stating that no such necessity as would have justified his re-election had been made manifest; and that, indeed, there were cogent reasons why, on the contrary, Mr. Ryland should occupy the office. Mr. Ryland was therefore nominated, and after a lengthened discussion, the result was a vote in favour of the election of Mr. Ryland.

WOLVERHAMPTON. — *County Court of Wolverhampton : Edwards* v. *Foster*.—This case was argued on the 29th ult. before Mr. Skinner. Mr. Motteram, of the Oxford Circuit, appeared for the plaintiff, and Mr. Barnett for Mr. Foster. The action was brought to recover the sum of £10 17*s.* 6*d.* for goods supplied to the defendant in March last by the plaintiff. A short time since the defendant petitioned the Birmingham Bankruptcy Court under the Private Arrangement Clauses, and obtained protection from arrest; but it was contended that the protection so granted could not prevent the plaintiff from obtaining a verdict, inasmuch as it only extended to the security of his person and goods from process, and did not prevent the plaintiff from suing and obtaining judgment, though it would be so if execution issued. If the plaintiff was to be prevented from bringing his action and obtaining a verdict because of the protection, it might act to his injury in case the arrangement should by any means be upset. Mr. Barnett contended that as the plaintiff was scheduled by Mr. Foster, the latter was protected against any proceedings of this nature from him by the protection which he had obtained under the 211th section of the Bankruptcy Consolidation Act; and further, that he was bound by the arrangement to which more than the legal

three-fifths in number and value of Mr. Foster's other creditors had come. His Honour gave judgment for the plaintiff.

At a meeting of county and borough magistrates and other gentlemen in this town, on the 31st ult., it was resolved that a public subscription should be entered into for the purpose of presenting to John Leigh, Esq., late stipendiary magistrate for South Staffordshire, a token of respect from the inhabitants of South Staffordshire upon his removal to Worship-street Court.

Ireland.

REAL PROPERTY LAW AMENDMENTS OF THE SESSION 1860.

The late session of Parliament, barren as it proved with regard to legal improvements in England, was partly redeemed from a similar stigma in the estimation of Irish lawyers by the passing of two Acts of a practical character relating to land in Ireland. The statutes 23 & 24 Vict. c. 153 and 154 became law, not without much discussion; but, having surmounted all obstacles, mainly through the determination shown by Mr. Cardwell and Serjeant Deasy, they at length received the royal assent; and it remains to be seen how far the expectations will be realized of those who have predicted their failure in practice.

The object of the first of these Acts, "The Landed Property Improvement Act," is sufficiently indicated by its title. Hitherto improvements on land have either been neglected altogether, or have been effected through advances of public money under several modern statutes. It was, however, felt that there was money in abundance in private hands applicable for this important purpose, and that the want to be supplied was that of a guarantee that improvements effected on settled estates (and few large estates in Ireland are out of settlement) should be fairly paid for, and that the benefit of expensive works done by one person should not be wholly reaped by another person. Accordingly, this Act enables improvements to be carried out on settled estates with private funds and on equitable terms; and it further contains leasing clauses which promise to supersede the more costly machinery provided by the "Settled Estates Act" of 1856. Then follows the part of the Act relating to "improvements by tenants," a subject most fully discussed in Parliament. The Act in its present shape gives every security that a landlord shall not in any case be charged for improvements made on his estate against his will. As this Act very closely concerns those connected with the landed interest as owners, or mortgagees, it may be well to glance at its chief features as briefly as possible.

A limited owner, that is, a person entitled for the term of his life to the enjoyment of an estate, under any deed or will, is empowered to charge the estate as against the remaindermen with the cost of any of the following improvements—thorough or main drainage of land; reclaiming land from tidal or other waters; embankments; reclamation or inclosure of bog and waste lands; making of roads or fences; erection of farm-buildings, houses for stewards, labourers, &c., and other buildings for farm purposes; and the renewal or reconstruction of any of the foregoing works, or alterations in or additions to them.

The Act proceeds to point out the way in which the improving owner is to proceed. A statement of the intended improvements, containing also all further particulars that can be material, is to be lodged in the Landed Estates Court, a judge of which Court is, after the service of notice on all parties interested, authorised to sanction the proposed improvements. After the works are completed, proof of their completion is to be furnished to the Court, which may then finally make a "charging order" (after another notice to the successor and all persons interested), charging the estate with payment of an annuity of £7 2s. for every £100 shown to have been laid out in such improvements, and payable for twenty-five years to the limited owner or his representatives. This annuity is, unless the judge shall otherwise direct, to have priority over all other charges or incumbrances whatever (excepting Government advances, head rents, &c.) The order charging the annuity is to be registered in the proper office. Regulations are to be made by the Court as to the details of procedure under this part of the Act.

The next division of the Act relates to leases. Limited owners are empowered under certain conditions to grant agricultural leases for twenty-one years, improvement leases for forty years, and building leases for ninety-nine years. Of every such lease a counterpart must be executed by the tenant containing a covenant for payment of rent. Agricultural leases may be granted by the owner of his own accord; but if he desire to grant an improvement lease of longer term, he must obtain the sanction of the county judge of the county where the land is situate. Building or repairing leases must also be sanctioned by the same authority; and where the building lease is of land beyond a certain value or extent, or for a longer term than ninety-nine years, the sanction of a judge of the Landed Estates Court must be obtained on application in a summary way. A new attempt is made by the Act to shorten indentures of leases (notwithstanding the failure of similar attempts in former times). It is declared that in agricultural leases covenants for good husbandry, &c., are to be *implied*, and the usual condition of re-entry for payment of rent is also to be implied in every description of lease. Every lease including any building is to specify on whom the obligation of rebuilding is to lie, in case of loss by fire, &c. The leases are to take effect in possession, and to reserve the full yearly rent; but in the case of building leases, a nominal rent is allowed to be reserved during the first five years of the term.

The Act points out the description of improvements to be provided for in an improvement lease, and authorizes rules of practice for obtaining the sanction of the Landed Estates Court, or the county court, to be made by the judges of those courts respectively.

The third part of the Act has for its object the encouragement of tenants themselves in making valuable improvements on the land in their occupation. The following are declared to be tenants' improvements—thorough or main drainage; reclamation and enclosure; making farm roads; irrigation; embankment from inland waters; erection of farm houses, or buildings suitable to the farm; reconstruction or renewal of any of the foregoing works. The "limited owner," or tenant for life, however restricted by the terms of his settlement, may contract with a tenant for the carrying out of any of these improvements; and after their completion, the tenant will be entitled to receive an annuity for twenty-five years of £7 2s. for every one hundred pounds so expended by him. A statement of the nature and value of the improvements is to be lodged with the clerk of the peace of the county, and the sanction of the county judge must be obtained. But before making the order charging the lands, the judge must hear any objections that may be raised; and he is authorized to make inquiries through competent persons, and on his being satisfied that the amount has been *bonâ fide* expended, he may make the order charging the annuity in favour of the tenant and his representatives, payable for twenty-five years annually from the date of the order. The annuity is to be in suspense so long as the tenant continues in his tenancy, and becomes actually payable only on his being ejected from his tenancy. Where no express agreement is entered into between tenant and landlord, the tenant is enabled to serve a notice on the landlord specifying the improvements he desires to make, with other particulars, and the estimated expense. The landlord may thereupon take either of three courses. He may, by agreement with the tenant, himself execute the works, charging the tenant an extra five per cent. upon the outlay to be recovered as rent. Or he may, within three months, notify to the tenant his unwillingness that the land should be improved; in which case, as no appeal lies, the improvements of course cannot be executed at all. Thirdly, the landlord may remain passive, and permit the tenant to execute the works at his own cost, to be repaid by an annuity as before stated.

Such are the leading features of this Act, which must surely remove any difficulties interposed by the English laws of settlement in the way of land improvement.

We reserve for the present a notice of the second and more lengthy Irish Real Property Act of this session—the Landlord and Tenant Consolidation Act.

In the Court of Exchequer on the 3rd inst., in a cause of *Armstrong* v. *The Earl of Meath*, Mr. Whiteside, Q.C., for the plaintiff, applied to the court to allow the case to stand over for a few days. He had received Mr. (now Master) Fitzgibbon's brief, and as the case had been partly argued, he wished to learn from the Master where he left off, so that he (Mr. Whiteside) might take up the case at that point, and thus save the time of the Court.

The CHIEF BARON said that under the circumstances the case might stand over.

Mr. Lawson, Q.C., has been called to the degree of second

serjeant-at-law, and Mr. Sullivan, Q.C., to the degree of third serjeant-at-law.

Mr. Gerald Fitzgerald, Q.C., has been appointed one of the Masters of the High Court of Chancery.

Foreign Tribunals and Jurisprudence.

(From the *Gazette des Tribunaux*, 17th Oct., by WILLIAM HACKETT, Esq., Barrister-at-Law.)

COUR IMPERIALE DE BOURGES.

TREASURE-TROVE—PARENTAL LIABILITY.

The discoverer of treasure is entitled to a moiety of it, to the exclusion of others who were present at the time of the finding, and aided the finder in collecting the treasure.

The parent is not liable for the mis-feasance of the child, where he could not have prevented the act complained of, and there is no evidence that the education of the child has been culpably neglected.

The Imperial Court of Bourges has lately made a decision with reference to treasure-trove not without interest. It appears that Jacques Descoux, a youth who was employed in digging the foundation for a new house in Bourges, discovered a treasure buried in the earth, consisting of a hundred and fifty-eight pieces of gold. He called his comrades, and together they collected the gold, and placed it in the hands of Rollin, the master mason, who made a division of the spoil; but Descoux, conceiving that he was wronged, summoned Rollin and the others before the Tribunal of First Instance.

Descoux, the father, in the name and as the guardian of his son, claimed that his son, as the finder of the treasure, was entitled to it, to the exclusion of all the other workmen who were working with him at the time of the discovery; that, notwithstanding, he had been despoiled by the others, who, profiting by his inexperience, had robbed him of the greater part of the treasure, and only allotted to him an inconsiderable portion of the sum found; and concluded by calling upon them to restore the value of half the treasure, with interest and costs. The land in which the treasure was found belonged to the department of Cher, and by law half of it was the property of the department. Accordingly, the Prefect of Cher intervened as representing the department, and demanded the restitution of half the treasure. The judgment of the Court declared the intervention of the prefect receivable and well founded; that Descoux must be considered as the sole discoverer of the treasure; condemned the defendants to recoup; ordered one moiety to be paid to the prefect, and the other moiety to Descoux.

On appeal to the Imperial Court the judgment of the Court below was confirmed as far as concerned the rights of the prefect and the right of the finder; but as regarded the liabilities of the different defendants the judgment was considerably altered. There is one clause of the judgment which we will give *in extenso*, as showing the different policy of the French law from our own. It seems that one of the defendants was simply charged as the father of one of the workmen, being himself altogether unconnected with the transaction. The language of the Court was as follows:—

"Considering, that the article 1384 of the Code Napoleon does not decide that every fault on the part of a son absolutely involves the responsibility of the father, since the same article enacts that this responsibility ceases if the father proves that he could not prevent the action which occasions it; that in the present case it is true that Gabriel Jean lived with his father, but that he habitually worked in a workshop and under the orders of a master who, up to that time, had enjoyed a good reputation; that it was at the usual hour, and during the time of labour, and under the eyes of his master, and even by his act, that the said Gabriel Jean took the sums the restitution of which is claimed; that it seems, therefore, that Jean the father could not possibly have foreseen and prevented such an act; that neither the correctional information nor the civil proceedings have shown any evidence which tends to incriminate either the morals of the father or the education which he has given to his son; that indeed, it is alleged, without any evidence in support, that the father must have known that the son had money, since he had purchased clothes and utensils, but that the knowledge which he might have had of these purchases could not be of a nature to involve him in the consequences of an accomplished fact, unless he had either concealed or diverted a portion of the product of the *quasi delictum*, in which case he might be proceeded against as personally bound; that, moreover, and in law, if the father, although absent, may be declared responsible for the acts of his infant son, it can only be, according to the sound interpretation of the law, in cases in which the concomitant and characteristic circumstances of the fault of the son have denoted in him vicious habits which prove the want of domestic discipline; that it is not so in the present instance, in which the faults with which Gabriel Jean has been justly reproached, although punishable by law, do not seem to have appeared with their true gravity and importance to the eyes of a youth of eighteen, as has been acknowledged by the Correctional Tribunal.

"Declares that Jean the father is not responsible for the acts of his son, and discharges him from the claim made against him by the Prefect of Cher and by Descoux."

The Civil Tribunal of Bourges has lately decided that when a station-master of a railroad receives from another station-master a telegraphic despatch to enquire if the road be clear, and answers in the affirmative; whilst it is at the same time blocked up, he commits a fault which makes him responsible in case of accident; and it does not make any difference that he hoped to clear the road before the arrival of the expected train. In the same case the Court held the company liable jointly with the delinquent servant.

M. Charrié, one of the former celebrities of the bar of Bordeaux, is just deceased, at the mature age of seventy-six. His name is not much known amongst the present generation. For the last few years M. Charrié had, to a great extent, retired from the practice of his profession, and devoted himself to his beloved literature. But many years ago, during the palmy days of the First Empire, M. Charrié was distinguished among the brilliant circle of orators who then ornamented the bar of Bordeaux. There was one case in which Charrié at that time distinguished himself—a case which has since been often cited in questions concerning literary property—that of Madame Lesparda, about the writings of Chénier. The last cause he pleaded was that of General Clouet, in 1846, before the Royal Court of Paris. His pleading has been printed, and, if we do not mistake, is included in the collection of the *Barreau Moderne*. Frequently of late years, since his retirement from the active pursuit of his profession, he might be seen in the Palais, attracted thither by his affection for his brethren, and the love he still felt for a profession which he had practised with so much ability and dignity.

We are indebted to Mr. A. C. Scoles, of Bedford-row, for the following authenticated translation from the Arabic of a recently executed purchase deed, according to the Mohammedan form, of a house and premises in Jerusalem.

"Seal and signature of the Kadij of Jerusalem.

"This is a true and legal title-deed, a precise and accurate document, the purport of which is framed and its contents constructed from the record of what was transacted and recorded in a sitting of the venerable Law Court, may God most High magnify it, before our lord and master, the very learned and truly efficient judge, who writes the accuracies of law and interpretation, and expounds the principles of both in the best manner, the chief of the judges of Islam, the most learned of all doctors; the mullah who has prefixed his honoured signature at top. May his learning and excellence abide, and his pre-eminence increase.

"Mr. N., subject of the sublime Turkish empire—may the Lord preserve and keep it—bought with his own property, not that of others, of the seller, the writer of this document, the humble N. N. being present, together with the purchaser in this law-sitting, he then sold him by a true and permanent sale what is his own and in his possession, and transferred and committed to him universally the legal disposal of it, having purchased it in the way of legal Estakhar according to a legal title deed dated rajah twelve hundred and seventy-three, the property having accordingly been in his full permanent and abiding possession without any objection or opposition having been made to him on this score up to the time of this definitive true legal and authentic sale—namely, the whole of the well-known share of three keerats, from the whole of twenty-four keerats, situate in the holy city of Jerusalem, near Damascus-gate in the Zarahny-street, and is known now by the name of Dar-el-Burahy, and is now in the possession of Rev. N., and comprises an upper room and an open space in front of it, and a lower room (formerly two),

and an open arching, a kitchen, a water-closet, and a small arched magazine, and a water-cistern for gathering rain-water, and open spaces and partenances universally, compounds, and legal rights:—The boundaries of which are;—southward, the thoroughfare of the lane and the house-door; eastward—the house formerly belonging to M., and now in the possession of N.; northward, a house bequeathed to the Greek convent; westward, the thoroughfare between this and the house of Rev. M., joined to it by an arching, beneath of which is the thoroughfare:—Sold all rights belonging to the same, together with all its partenances universally, its passages, its sewers, its compounds, and whatever is known by it or ascribed to it, together with every right belonging to it in law—a true and lawful sale; a permanent, definitive, and authentic purchase, in which is no subterfuge nor any flaw that could invalidate it, comprising acceptance and receipt on conditions of validity and obligation at a price the amount of which is four thousand piastres, a price immediately received by the hand of the writer of his the aforesaid seller from the hand of the aforesaid purchaser, according to the confession of the seller, who received the same from the purchaser, a legal acknowledgment in virtue of which the conscience of the aforenamed purchaser is cleared of the whole of the price named above, and of every part of it, and legally absolved by receipt, a disbursement, so that the definitive act of sale has taken place between them in regard to all this in acceptance and receipt and disbursement true and legal by bodily touch in token of agreement between them, and by a legal contract. Wheresoever, therefore, anything comprised in or belonging to this property be found there its appropriation is valid, because obligatory by law. Then, after the completion of this, the writer of this, the aforenamed seller, called witnesses to attest that he absolves the conscience of the aforenamed purchaser from all allegations of overreaching, imposition, or deception in this sale, an absolution in law. The purchaser has legally accepted for himself this transaction, being well aware of the stipend of Haker for this afore-described share in this aforesaid house, amounting to ten piastres per annum, to the bequest of the late Mr. N. (may God absolve him).

"This the purchaser willingly accepts, and binds himself legally to pay the sum mentioned every year to the aforesaid bequest.

"Accurately written in the commencement of the sacred month Salkadij, in the year three and seventy and two hundred and one thousand.

"Witness—

"The writer, the humble N. N.

NEW YORK.—A decision has just been pronounced in this State which affords a striking illustration of the evils of hasty legislation. The revised statutes of New York contained, among others, "An Act concerning Crimes and Punishments;" wherein it was provided that certain offences should be punishable with death, and that "the punishment of death shall in all cases be inflicted by hanging the convict by the neck until he be dead." Last winter the philanthropists made an effort to have capital punishment abolished. They had a long hearing before the Assembly Committee, which resulted in a compromise, providing that only treason and murder in the first degree should be hereafter punished with death, and that the sentence should not be carried into execution within a year after conviction, during which time the convict should be kept at hard labour. The repealing clause of the new Act was intended to embrace all the clauses of the old Act inconsistent with it; but, by some error, it included the words quoted above. It is decided by the Court that the new law, having abolished the only statute defining hanging as the mode of punishment, and itself prescribing no new mode, there is now no known sentence which can be pronounced against a person convicted of murder in the first degree. Thus, by the possible mistake of a clerk, or the trick of an agent, the Legislature of the State of New York have been forced into the temporary abolition of capital punishment.

THE HAGUE.—*International Criminal Law.*—A subject of very grave importance to the mercantile community will shortly occupy the attention of the superior criminal court at the Hague. In January last a Dutchman, named Charles Van Gelder, who was employed in a confidential capacity by Mr. Stubbs, the principal of a firm in Gresham-street, absconded with money and other property belonging to that gentleman, and it turned out that he had also committed forgeries to a very considerable extent, and had obtained discount upon bills purporting to bear the acceptances of city firms, some of which, upon inquiry, it was discovered were non-existent, and others were forgeries. By escaping to the Hague he eluded the English police, since no extradition treaty exists between this country and Holland, and as he declared himself a Dutch subject, the Dutch government refused to deliver him up. The important question then arose whether the Dutch criminal courts could take cognizance of a criminal offence committed in a foreign country. Through the interference of the British minister, the law officers of the Netherlands government were at length induced to take an interest in the matter, and to see the very grave importance of the question, and they resolved that the matter should at all events undergo solemn judicial consideration by the law officers of the crown. With this view Mr. Stubbs and all the other witnesses required to support the case were summoned to appear, and they gave their evidence, and the prisoner himself, in accordance with the law of Holland, underwent several interrogatories by the judges, and after a long inquiry, and a strenuous endeavour on the part of the prisoner's advocate to prevent such a course being taken, he has at length been sent to take his trial before the supreme court of justice at the Hague, upon the charge of forging acceptances to certain bills of exchange, the alleged offence having been committed in England. The case now, therefore, stands for trial before the judges, when the point of law will be discussed whether a subject, committing forgery or fraud in a foreign country, can be convicted in Holland. Should this point be decided in the affirmative, the comparative immunity which has been available to persons absconding to that country will be destroyed.

The *Upper Canada Law Journal* informs us that an Act has been passed for the province of Lower Canada providing for the establishment of a complete system of judicial statistics.

Review.

A Treatise on the Law of Merchant Shipping. By DAVID MACLACHLAN, M.A., of the Middle Temple, Barrister at Law. London: Maxwell.

It is now more than half a century since Lord Tenterden (then Mr. Abbott) wrote his famous treatise on the "Law relative to Merchant Ships and Seamen." For more than a century previously, no work of any pretensions on this subject had been achieved by an Englishman. In the eighteenth century the great text book of lawyers on maritime and commercial law was that of Molloy,* which, even in those days, went through as many editions as since then Abbott on Shipping has attained. If we except the unquestionably valuable additions which have been made from time to time to the latter, by its accomplished editor, and the recent collection of leading cases on mercantile and maritime law by Mr. Tudor, comparatively nothing has been done since the commencement of the present century by English text writers towards the elucidation of one of the most important and comprehensive branches of law, and one, moreover, which it might be supposed beforehand would be deemed of all others the most attractive for our jurists. The remark of Lord Tenterden in the preface to his first edition, although he did what he then could to make it no longer applicable, has just as much force now as it had then. "The absence," said his lordship, "of a general and established code of maritime law which almost every other European nation possesses, seems to render a collection of the principal points of that law peculiarly necessary for English merchants and English lawyers." Since these words were penned a vast number of additions have been made in the statute law relating to ships and shipowners. A great revolution, moreover, has taken place in the mercantile marine not only of England but of all countries. On the one hand, the invention of steam engines and other appliances of science, by the vast changes which they have wrought in the material of our commercial navy, and in commerce generally, and on the other, many modern treaties and conventions involving questions of maritime law, combine in proving the necessity of some large and systematic treatise on the English law of merchant shipping, including not merely such questions as relate to owners, mariners, and freight, but those larger topics which belong to international maritime law. There is perhaps nothing in the legal literature of this country more surprising than the fact that no English lawyer has ever yet (until the last year or

* De Jure Maritimo et Navali. 9. Ed. 1796.

two) seriously essayed a work on this great subject. The work of Mr. Tudor, to which we have already referred, may be considered the first important effort in this direction; but its plan necessarily involved fragmentary treatment, the design of the learned author never having gone beyond the selection and illustration of some leading cases on mercantile and maritime law.

Whether we regard the origin of modern maritime law as traceable through the Roman jurists to such sources as the laws of Rhodes, or regard it as a species of unwritten law common to all civilized states, in either view, surely no department of jurisprudence can offer a more desirable field to an English jurist. Few topics at all events have been more laboured by foreign writers on law. An Italian lawyer of the latter part of the last century wrote in his native tongue a universal dictionary, and in the French language a treatise, on the maritime law of Europe.* An American lawyer has translated the last mentioned work, although but very few copies of the translation have found their way to Europe. The Germans can boast of Heineccius,† and the several writers referred to by him, Engelbrecht,‡ and other writers on maritime law. Among the numerous Dutch and Flemish lawyers who have written upon the subject may be mentioned, Roccus,¶ Pardessus,‖ and Hübner§ The French can boast of numerous works of the same kind: Pothier of course treats largely and in detail of ships and shipping; and every French lawyer may find any question coming within the range of the subject in the Code de Commerce. Spain also has its maritime law authors.** It appears not unreasonable, therefore, for an English jurist in this latter half of the nineteenth century to look for the favourable reception of a book which is not confined merely to the class of questions to be found in Abbott on Shipping. Previously to and for some time after the last-mentioned work had left the hands of its author, the Admiralty Court of England existed in scarcely more than a name; and Lord Stowell, its first great judge, who, in fact, laid the foundations, and almost reared the superstructure of English maritime law, himself expressed his shame at the small amount of judicial work which he had to do. The labours of Lord Stowell, however, have been almost rivalled by those of one of his successors who now presides over that court; and probably in no other country in the world is there any richer storehouse of materials for a great book on maritime law than is to be found in the judgments of these two learned civians and in the decisions of our English tribunals generally. Mr. Maclachlan, therefore, in what he has undertaken had not only the satisfaction of knowing that he was about to engage in a work almost of necessity to English law, but had further the advantage of dealing with a large mass of most valuable, although somewhat undigested, matter. Not only does the general scheme and design of his treatise differ in numerous important respects from that of Lord Tenterden's Treatise; but to a large extent the very subject matter itself is new to English text books. Mr. Maclachlan favours us in his preface with the following account of his general plan:—

"The following treatise, planned upon the order of the subject, opens with the acquisition of ship property, and those dealings with it, when acquired, which are recognised and sanctioned by law. It passes from this to the various relations of the owners in connection with such property—among themselves, with their agents, to the world at large, the mariners in particular, and generally to the owners of other ships that may be met with on the maritime highway. Thus far it comprises only those dealings and relations, legally considered, which begin and end immediately in the possession of this description of property, forming what may be regarded as the first grand division of the subject. The second division is concerned with the commercial purpose of ship property, and all those obligations which are severally contracted by the owner and the freighter in the employment of it for that end, whether expressly stipulated between them at the first, or implied by law from the relation thus formed, in connexion with the course of subsequent events. The subject, in this view of it, appears distinctively massed about a few centres, presenting for the investigation of it a plan that easily admits of the full discussion of particulars whilst it naturally combines towards the general development of the whole, and immediately accessible in any part of it to a mere stranger. The complete conception of a work of this nature comprehends a variety of subjects not hitherto considered within the same treatise. Ships regarded as property, although engaging so large an amount of British capital, did not enter into Mr. Abbott's scheme. The General Maritime Law and the Law of Nations, touching international questions, have heretofore been dismissed with the casual notice of a few decisions; and yet, as administered in the Prize Court, they affect shipping, and merchandise, and the profits of the carrying trade, being universal in the applicability of their principles, and bearing sensibly in their effect upon the interests of communities and the prosperity of a nation."

We are able to say after a careful examination of the book before us not only that the author's own account of it is correct, but that he scarcely does himself justice in it. Unpretending as is his statement of his labours they will be found upon examination to have been of a magnitude and character which would be held by most persons to justify what brother Jonathan calls "taller talk." Simple as the general arrangement of the work and the grouping of its details may appear from Mr. Maclachlan's preface, there are evidences throughout the entire book not only of great skill in dealing with new subject matter, and arranging it in a natural and convenient manner, but of untiring labour in the attempt to obtain perfect completeness. With much searching we have been able to discover very few omissions, and even where they occur there generally appears to be some reason for them. As a rule every reported case bearing upon the topic under consideration is noticed by the author; while he is always remarkable for his self-denying abstinence from unnecessary statement of facts, needlessly long quotations from well-known judgments, and the other machinery of modern book-making. Whatever Mr. Maclachlan has written is evidently the result of his best consideration, and is expressed with precision and conciseness.

Another creditable feature of this work is, that while the author rarely fears to approach the most difficult questions of international maritime law, and treats them with more boldness than is usually shown by English jurists in this province, he is never tempted away into the regions of mere speculation, but always keeps his eye closely upon the practical value of what he is doing. Indeed, we hardly know how to give a higher praise to a legal author, or we should be disposed to award it to Mr. Maclachlan for his performance; for we have seldom met with a law book that deserves more praise in many respects than that now before us.

As to the omissions to which we have already alluded, we may mention the subject of marine insurance. Lord Tenterden omitted it purposely, as the subject had already been well treated; and since then Mr. (now Sir Joseph) Arnould has done all perhaps that is needed on that subject. The omission of it, nevertheless, in a work devoted to general maritime law requires some explanation, and is not unlikely to cause the overlooking of a class of decisions which, although they come under the general head of marine insurance, nevertheless involve many nice questions touching other points of maritime law, *ex gr.*, the implied warranty of seaworthiness in insurance contracts, what amounts to, and what justifies, a deviation from the usual course, &c. The space devoted by Mr. Maclachlan to the question of the right of search and to the doctrine of contraband of war, is so limited as to disable him from introducing into his text all the authorities which he might usefully have cited. Probably the fact that Mr. Tudor had already collected all the cases on these topics induced Mr. Maclachlan to treat them more summarily than he otherwise would have done. The chapter or general average is characterised by lucid arrangement, and gives a succinct account of English law on that important subject, but it barely alludes in passing to the troublesome differences in the laws of various countries, as to the nature of the loss, damage, and expense, allowable in general average, and in the principle for the ascertainment of the same respectively. Mr. Maclachlan's explanation probably would be that he was not writing an account of the maritime law of Europe and America, but of England; and although he was willing to discuss doctrines of the latter, so far as they were common to the English and other systems of jurisprudence, he was not obliged to go out of his way to point out the differences. The question of general average, however, is eminently one of international importance; and a book professing to deal with the law of nations, so as it affects maritime law, ought not to be all but silent on this head.

* Dizionario Universale Ragionato della Giurisprudenza Mercantile. By Domenico Alberto Azuni. Droit Maritime de l' Europe. By the same Author.
† Scriptorum de Jure Nautico et Maritimo Fasciculus.
‡ Corpus Juris Nautici, &c.
¶ De Navibus et Naulo.
‖ Cours de droit Commercial.
§ De la Saisie des Batimens Neutres, &c.
** Caymany y de Monpalau.

Metropolitan and Provincial Law Association.

THE LAW OF JUDGMENTS.

The following learned and very useful paper on the Law of Judgments as affecting Real Property, was read by Mr. G. J. Johnson, of Birmingham, at the late meeting of this Society:—

The clauses as to judgments in Lord St. Leonards' Act of last session (23 & 24 Vict. c. 38) are the *fifth* legislative attempt during the last twenty years to amend this branch of the law.

It was supposed by many of us, and hoped by all, that this last Act would remove all the difficulties, and abolish all the inconveniences which the four previous Acts have created. This supposition is unfortunately *not* correct; for although the Act is a great improvement, yet it is tainted with the vice of all previous legislation on the subject, viz., that of amendment without consolidation, and leaves the old law in full force in two classes of cases:—

1. As to all judgments entered up before 23rd July, 1860, even as against purchasers and mortgagees.
2. As to all judgments either before or after the Act, so far as concerns the judgment debtors themselves and their creditors, and all other persons except purchasers and mortgagees.

We have not therefore yet got rid of the law of judgments; and the object of this paper is to describe briefly the state of that law, the extent to which it is altered by Lord St. Leonards' Act, and incidentally to show how many difficulties have occurred by the neglect of the principle that there should be no amendment without consolidation.

Singular as it may appear, we cannot thoroughly understand the subject without beginning with the Statute of Westminster the Second (13 Edw. 1, c. 18, A.D. 1285); and if any one thinks this pedantic and impractical, I would refer him to the recent case of *Fuller* v. *Redman*, (reported in the *Law Journal* for the present year), in which an unfortunate administrator had his payments to simple contract creditors disallowed as against a judgment creditor, only because this statute was still in force and had been overlooked in the four Acts for the amendment of the law of judgments.

This Statute of Westminster the Second, then, first affected real property with judgments by enabling the judgment creditor to have at his *election* either a *fieri facias* or the half of the debtor's freehold lands. From this *election* the writ under which the lands were taken was called an *elegit*. It is to be noted, that the distinction between freeholds and leaseholds, which has ever since prevailed and which is the basis of the legislation of the last session, dates its origin from this early period, for the debtor's leasehold interests might either be taken in the entirety, as personal property, under a *fi. fa.* or a moiety attached under an *elegit* as an interest in lands.

Again, between freeholds and leaseholds there was also this difference, that the moiety of the freeholds was bound from the signing of the judgment; but the leaseholds under a *fi. fa.* only from the time of the delivery of the writ to the sheriff (29 Car. 2, c. 4, s. 16).

For the protection of heirs and executors, purchasers and mortgagees, it was provided by 4 & 5 W. & M. c. 20 (A.D. 1692), that no judgment should affect them unless docketed as there directed.

So stood the law at the time of the passing of 1 & 2 Vict. c. 110. The object of that Act was to extend the creditor's legal remedy to *all* the debtor's *real estate* instead of *half* his freeholds; to give him increased equitable remedies; and to establish an improved system of docketing, called registration, for the information and protection, not only of the purchasers and mortgagees (as the old dockets) but of creditors.

Here occurred mistake the first. Instead of repealing the statute of Westminster the Second and starting afresh, it was simply provided that a judgment creditor might have the whole of his debtor's real estate under an *elegit*, but that no judgment *by virtue of that Act* should affect purchasers, mortgagees, or creditors unless and until registered.

The result was, that as soon as 1 & 2 Vict. c. 110 was passed a judgment creditor had two courses open to him, *i. e.*, either to docket under the old law and take half his debtor's freehold lands, or to register under the new law and take the whole of his debtor's real estate. It must not be supposed that this was not likely to be done: it was; and for this reason, that under the old law a judgment creditor was entitled to relief in equity against a purchaser or mortgagee if he had given express notice, although he had not docketed (*Davis* v. *Earl of Strathmore*, 16 Ves. 419) and as it was thought (and afterwards expressly provided) that under the new law notice was nothing without registration, a creditor who had not registered might act on the principle that "half a loaf was better than no bread," and so give notice and take his chance under the old law.

As soon as this mistake was discovered, and in the very next session, the 2 & 3 Vict. c. 11 was passed expressly to correct it, and instead of correcting it made the matter worse by simply closing the old dockets (s. 1) and leaving unaffected the judgment required to be docketed. In other words, it left the old remedy outstanding and simply withdrew the old protection against it! The creditor's right to take half his debtor's lands was still untouched, and though he could not make it available at law, the unreversed decision in *Davis* v. *Strathmore* enabled him to do so in equity as against a purchaser or mortgagee with notice. Indeed, it was mooted whether express notice without registration was not a ground of equitable relief under the new Act. To settle these doubts a *third* Act was passed (3 & 4 Vict. c. 82) which certainly did settle that notice however express without registration, did not avail under the new law, but still left it open to a judgment creditor to charge one half of his debtor's lands in equity under the old law, by giving express notice, although he had not registered under the new law and could not docket under the old. To stop this gap a *fourth* Act was necessary—18 Vict. c. 14. Sect. 4 of this Act finally declared that express notice of any judgment without registration under 1 & 2 Vict. c. 110 should not affect a purchaser, mortgagee, or creditor, either at law or in equity.

So much for the first serious error, that of leaving two concurrent and conflicting systems in operation at one time. In addition to this there were two other omissions in the 1 & 2 Vict. c. 110. First it did not declare whether registration was in itself notice, and secondly it left it very doubtful whether the former distinction between freeholds and leaseholds (*i.e.* that freeholds were bound from the entry of the judgment, but leaseholds only from the issuing of the execution) survived in the new system.

These omissions were supplied by the 2 & 3 Vict. c. 11, in the worst possible way, *i.e.*, by reference to the old law instead of declaring the new. Sect. 5 of the last-mentioned Act provides that as to purchasers and mortgagees judgments under 1 & 2 Vict. c, 110, should not affect lands "further or more extensively" than if such judgments had been docketed under the old law. It would have taken fewer words to have said plainly (1) that registration should not of itself be notice to purchasers or mortgagees, and (2) that as to them, leasehold interests should not be bound until execution issued. But the Legislature preferred to throw upon the profession the task of finding out what the old law was, and if we could find out that, then telling us that the new system did not affect lands "further or more extensively" than the old.

If the practitioner looked up the old cases he would find it was decided in the reign of Charles II. (*Churchill* v. *Grove*, Freeman's Chy. Ca. 176), that docketing was not notice. Few solicitors felt quite satisfied with these musty authorities until they were recognised as valid under the new law in *Lane* v. *Jackson*, 20 Beav. 539, where it was held not only that registration was not notice), but also that there was no obligation on a purchaser to invite notice by searching the register. Although if he does search he is fixed with notice of judgments on the register, whether he finds them or not (*Procter* v. *Cooper*, 2 Drew. 1).

Notwithstanding these decisions I have frequently had occasion to discuss this point with other solicitors, and have found the notion to be very common that registration was of itself notice, and I contend that it is a point which ought to have been clearly settled on the face of the Act itself.

But it may be asked, if notice without registration is invalid; and registration without notice also inoperative as against a purchaser or mortgagee, why search at all? why invite notice by search? One sufficient reason is that a subsequent purchaser who does search may find a judgment was registered of which if you had searched, you would have been fixed with notice, and in the nature of things you cannot prove that you did not search, and did not have notice, and such a title cannot be forced on a purchaser (*Freer* v. *Hesse*, 4 De Gex M. & G. 495).

The other point as to the precise effect of the new Acts on leaseholds on which the Legislature ambiguously declared that such Acts were not to operate "further or more extensively" than the old as against purchasers or mortgagees, occasioned much difference of opinion. By the cases of *Westbrook* v. *Blythe*, 3 E. & B. 737 (A. D. 1854), at law; and

Harris v. *Davison*, 15 Sim. 128 (A.D. 1846); and *Gore Bowser*, 3 Sm & G. 1 (A.D. 1855), it may be taken to be settled that as against the judgment debtor himself, and all others claiming under him, *except purchasers and mortgagees without notice*, leaseholds are now bound from the time of the judgment entered in the same way as freeholds, and that a judgment creditor is in a better position than under the old law, in that his right to seize at law and his lien in equity takes date from the entry of the judgment, whereas under the old law he had no right either at law or in equity until the *elegit* or *fi. fa.* actually issued. But as *against purchasers and mortgagees without notice* the judgment creditor's right takes date only from the time of execution issued, and it would seem (as stated in the late Mr. Baron Watson's argument in *Westbrook* v. *Blyth*, although this has never been decided) that the creditor could only take half of the leaseholds. This is one of the fruits of legislation by reference.*

Another serious omission in the 1 & 2 Vict. c. 110, and its three amendment Acts was the case of heirs, executors, and administrators. The effect of the Statute of Westminster the Second, was to bind them to pay judgment debts in priority to simple contract debts, whether they had notice or not. The 4 & 5 W. & M. c. 20, furnished them with a protection by obliging judgments to be docketed as a condition precedent to their obtaining priority. The 2 & 3 Vict. c. 11, took away this protection, but (as was decided by the before cited case of *Fuller* v. *Redman*, L. J. 1860, Ch. 324), left the mischief remaining by omitting all mention of heirs, executors, or administrators in the class of persons protected by non-registration and non-notice. This is cured by sect. 3 of Lord St. Leonards' Act.

Now all this mischief and complexity has been brought about by the neglect of that most salutary rule—no alteration without consolidation. If at the time of the passing of the 1 & 2 Vict. c. 110, the Statute of Westminster the Second, the root of the old system had been taken away we should not have required four amendment Acts to lop off its different branches. It does not fall within the scope of this paper to advert to the other vexed questions arising on these Acts, such as the effect of re-registration, and other points. I have only adverted to those questions as to freeholds and leaseholds, and notice, necessary to introduce the new Act.

Now for the Act itself. The preamble states that it is desirable to do three things.

1. To place freehold interests in real estate on the same footing with leaseholds as to judgments so far as purchasers or mortgagees are concerned [*i.e.* to bind them by the *execution* and not by the *judgment*].
2. To enable such purchasers and mortgagees to ascertain when the execution has issued; and
3. To protect them against delay in levying the execution.

These three objects are effected in the following way, as to the first:—No judgment is to effect any land of whatever tenure *as to purchasers or mortgagees* unless and until such judgment is *followed by execution*.

[So far, therefore, as purchasers and mortgagees are concerned mere judgments entered up subsequently to 23rd July, 1860, have no operation. It is only an *execution* that they have to fear.]

The second object, that of enabling purchasers and mortgagees to ascertain when execution has issued is accomplished.

1. By establishing a new registry of *executions* distinct from, although connected with, the registry of *judgments*; and
2. By making it necessary that the *execution* shall be so registered before the purchase or mortgage. If not so registered, it does not affect a purchaser or mortgagee, even though he has notice of it.

On this part of the Act it is to be carefully noted that we shall henceforth have two registers:—

1. A register of *executions*, affecting purchasers and mortgagees only; and
2. A register of *judgments*, affecting all others than purchasers and mortgagees, and affecting *them* as to judgments before 23rd July, 1860.

From two letters of the registrar's chief clerk, published in the legal periodicals in August last, it appears that the practice proposed to be followed by the register office, with the concurrence of Lord St. Leonards himself, will render it necessary—

That the judgment creditor should register his judgment in the *judgment* register, and also register his execution in the *execution* register, but that purchasers or mortgagees need only search the *judgment* register as heretofore, as they will find a memorandum added to every judgment whenever an execution has been issued. When such memorandum is *not* found, it may be presumed that execution has *not* been issued, and therefore could not be registered. Where such a memorandum *is* found, the register of *executions* must be searched to see if the second requisite —viz. registration of execution—has been complied with.

Upon this section the old question is sure to arise, will the registration of *execution* be of itself notice? The committee of the Birmingham Law Society in a report on the bill, in which I had the honour of assisting, earnestly suggested that a declaratory clause on this point should be inserted in the Act. This has not been done, but I submit that registration of an execution is not notice under this Act to a purchaser or mortgagee. The point is not free from all doubt, for it may be contended that as the declared object of the Act is to "place on the same footing" freehold and leasehold estates, and as leaseholds were at the time of the passing of the Act bound by the issuing of a *fi. fa.*, freeholds to be on the same footing must be bound by the issuing of the execution, if and when registered before the purchase or mortgage. The reply to this is, that leaseholds were only bound by the issuing of an execution, *when that execution was a fi. fa.* treating such leaseholds as goods. Leaseholds were never bound by an *elegit* from the time it was issued only from the time of execution. And granting even that s. 1 of the 19 & 20 Vict. c. 97, that a *fi. fa.* shall not bind goods until notice, does not apply to terms of years, so as to make notice necessary, there is nothing in the Act under discussion to destroy the difference of operation between a *fi. fa.* and an *elegit*, and to give an increased operation to an *elegit*. Again, and I rest the matter chiefly on this point, the protection acquired by non-notice is part of the general doctrine of courts of equity which supplements and controls all the statutory provisions, unless this jurisdiction of equity is taken away by express words. The uniform doctrine of courts of equity was that docketing *was* not notice, that registration *is* not notice, and, bearing in mind that registration of executions under this Act is not an original system but only an addition and accessory to the already existing registration of judgments this doctrine will surely be held (in the absence of express provision to the contrary), to apply as well to the derivative and accessary registration of executions as to the existing registry of judgments.

The third object of the Act, that of protecting purchasers and mortgagees from delay in the execution of the writ, is accomplished by providing that such writ must be executed and put into force within three calendar months after registration. In other words it remains a charge on the land for three months only; and as there is no provision for re-registration as in the case of judgments, it is presumed that it cannot be kept alive beyond three months.

The results of our enquiry into the Law of Judgments may be summed up thus.

As far as the debtor himself is concerned, and all persons claiming under him, except purchasers, mortgagees, and creditors, the judgment may be enforced by an *elegit* at law on all his real estate, and is a charge thereon in equity; and no registration is required for that purpose.

As far as purchasers, mortgagees, and creditors, are concerned, the question how far they are affected will in future depend on whether the judgment was entered up before or after the 23rd July, 1860.

1. If the judgment was entered up *before* 23rd July, 1860, it must be registered under 1 & 2 Vict. c. 110, and such purchaser or mortgagee must have notice of such registration. Neither notice without registration nor registration without notice will do. There must be registration *and* notice, but notice will be implied from search of the register.

Any judgment entered up *before* 23rd July, 1860, may, it would seem, be kept alive indefinitely by re-registration every five years.

And it would seem also, (from *Beavan* v. *Earl of Oxford*, 4 W. R. 112) that if it were not continuously registered *e.g.* if the five years expired in 1860, and it were not re-registered until 1861, a purchaser or mortgagee with notice in 1862 would be bound. Hence arises the necessity for keeping in view the old law.

2. If the judgment was entered up *after the* 23rd of

* It is not yet decided how far sect. 1 of 19 & 20 Vict. c. 97, "The Mercantile Law Amendment Act, 1846," which enacts that goods shall not be bound by the mere delivery of writ to the sheriff as before, but only after notice that the writ is so delivered, applies to terms of years. The argument that it does *not* is derived from the preamble of the Act, declaring its object to be to remedy inconveniences to persons engaged in trade. The argument that it *does* is that the same term "goods" in the Statute of Frauds has been held to comprise terms for years.

July, 1860, it must *as to purchasers and mortgagees* not only be registered, as before, as a *judgment*, but must ripen into an *execution*, and be registered and enforced as provided by this Act; but as *creditors* are not mentioned in this Act they are in the old position, *i.e.* the same as though it had been entered up before the 23rd of July, 1860.

I have exhausted my limits in the attempt to explain what the law is; I cannot conclude, however without observing that the present anomalous system will soon require alteration. I fear that the existence of two concurrent registers affecting distinct classes of persons, will, like the collision of the old dockets and new register, occasion difficulties which we cannot see at present.

Independently of that, it seems to be clear that if it is good policy to give a judgment creditor a claim on the real estate of his debtor, it is a departure from that policy to reduce his claim to a shadow, as it will be under this Act. If, on the other hand, it is right so severely to restrict these claims as against purchasers and mortgagees, it is equally right and incomparably more convenient to relieve purchasers and mortgagees altogether from them.

National Association for the Promotion of Social Science.

PROCEDURE IN CRIMINAL CAUSES.

The following paper by Mr. J. Campbell Smith, advocate, suggesting some amendments in the procedure of criminal courts in England and Scotland, was read by that learned gentleman in the Jurisprudence Department of the recent Congress at Glasgow:—

I assume as settled that the end of criminal prosecution is to punish crime, and that every crime is a *fact* to be proved by witnesses according to the rules of evidence to the satisfaction of a jury of twelve or fifteen men. Besides the jury, the agents in a criminal cause are the prosecutor who accuses, the counsel of the accused, and the judge who decides when disputes arise as to the admissibility of evidence or the *relevancy* of the allegation of crime. The duty of all these is well settled both in England and Scotland, and neither country has much to borrow from the other nor much to amend. But there are some improvements which both might adopt with advantage.

One very great improvement I think England might borrow from Scotland, and that is the institution of a staff of local prosecutors for the public, to investigate crime and to collect evidence of crime to be used against the criminal at his trial. In Scotland this is done by the procurators-fiscal, who are stationed in each district. The procurator-fiscal, when he receives information of some criminal act, directs investigation, examines witnesses, and sends the result of his inquiry to the crown-agent, who lays it before the Lord Advocate, who is public prosecutor for all Scotland, as the Attorney-General is, in theory, for England, and he or his assistants called deputes, direct a trial, or "no further proceedings," according as they consider the guilt of the accused can be established or not. The entire machinery is very simple and is not at all expensive, and it is such that crime cannot be whispered about and escape. But in England there is no machinery. The Attorney-General is public prosecutor, but he has no corps of observation posted over the country to give him information of crime. When a crime is committed no one is bound to bring the offender to justice. Any private individual may do so, but he can do it only at considerable cost; and if it turn out that the prosecution should fail, he may be ruined by an action of damages for "malicious prosecution." The consequence is, that no private individual who has not been deeply injured will run the risk, and even though he has been deeply injured he may sink his sense of public duty and his desire of revenge under his indolence and his fears. And there are some crimes which, though tending to debase and dissolve society, no private person would feel impelled to have exposed and punished. I know that in England crimes that are notorious and scarcely nameable pass with impunity. No one finds it to be for his interest to seek them out, prosecute, and see them punished: and I believe that there is no crime whatever except murder which does not in England frequently remain unprosecuted for want of a staff of public prosecutors acting under the Attorney-General or some other head.

So far as I can learn, Englishmen are agreed that their present system is not what it ought to be. Lord Brougham has exposed its great defects oftener than once. Some who, like his lordship, have studied the matter, believe that the Scotch system is better, but how to transplant it to England is the difficulty, which, however, is not, as I think, very formidable. Our procurators-fiscal investigate into all suspicious cases of death, and their investigations, though *ex parte*, are not less satisfactory than those of the English coroner, who is, we in Scotland consider, a somewhat officious and incompetent functionary, prone to expose private matters needlessly, and to proclaim on the house top what should be buried in the grave. I wonder if matters could not be arranged so that the English coroner, or some substitute for him, could investigate all crimes with a little less fuss perhaps, if vulgar curiosity will permit of it. I know that there is something to be said for a public investigation; but so long as Dr. Taylor and other scientific men, with either pure or impure copper gauze, seek for the very kernel of crime in private laboratories, I submit that the coroner's public investigation is more of a name than a reality. But I do not quarrel with it, as it is an English institution; all I say is, that a similar or at least equally sufficient process of investigation should be extended to all crimes, and that can be attained only by the appointment of public prosecutors in every county and town to investigate crimes and pursue criminals to conviction. Practically, this may be brought about, so far as I can see, with very little additional expense to the public, in this tolerable way at least—namely, by appointing local prosecutors, and a staff of barristers subordinate to the Attorney-General, and letting them be paid by fees as *self-appointed* prosecutors are now; who, varying in each case, cannot reap the full benefits of experience, whether their zeal be stimulated by fees or not.

On the other hand, Scotland could borrow a reform from the criminal courts of England, and that is the method of reserving points of law that arise during a trial for the deliberate consideration of a full bench of judges. In Scotland, three judges sit in the High Court of Justiciary, and two on circuit, and they are under the necessity of deciding off-hand and in the most summary manner very difficult questions of law. The consequence is, that the most diverse and conflicting decisions are given. One set of judges decide that an attempt to steal is not a crime; and another, that an attempt to pick pockets is a crime. The High Court decides, that selling a pledged article without authority is not theft, and a judge on circuit lays it down to a jury that it is theft. One judge tells a jury that before they can convict a mother of infanticide, there must be proof of complete living birth, as the judges of England always do, and the woman is acquitted, and another judge does not lay down that law, and after evidence precisely the same as that on which the other was acquitted, a poor wretch is convicted and sentenced to penal servitude for life or to death. The civil court refers to the oath of a party denying marriage for proof of marriage, and in the circuit court a judge tells the jury that the oath of one witness who admits marriage proves nothing. In fact, the contradictory and arbitrary judgments of the judges of Justiciary are somewhat astonishing, and the only way to end a conflict which tends to render them ridiculous, would be to reserve all questions of law for the decision of all the judges of the criminal court.

To do this was a pet notion of the celebrated Lord Cockburn, the practical clearness of whose mind was only surpassed by the brilliancy of his humour; and he tried it once with an unfortunate result. In a trial at Inverness, of a woman named Fraser, and her son, for poisoning a man who was her husband and his father, a packet was offered to be put in evidence as a production, which was described as a "sealed packet," when in point of fact the seal had been cut all round, and the packet opened after seal. Counsel objected to the admission of this misdescribed packet; and Lords Cockburn and Ivory reserved the point for the consideration of the High Court. The prisoners were found guilty of murder, and the case against them was continued to an indefinite day. Ultimately it was held by the High Court that the failure to name a day was fatal, because in the Court of Justiciary all diets are *peremptory*, and owing to that omission the prisoners escaped, and Lord Cockburn's experiment failed. But the present Lord Justice General, whose words always mean fully what they express, doubted the competency of reserving a point of law in the course of a trial; and I hardly think any judge would venture again to make the experiment, so that we can obtain this reform only through legislation.

There was another matter in Scotch criminal procedure of which Lord Cockburn disapproved, and that is the verdict of "not proven." It is difficult to feel the force of his argument on this point; and I have seen that whenever the attention of the English public has been called to it, the honest good sense of England has thought it a right verdict, because it is in many cases a true verdict, and the only true verdict possible on the

evidence. The truth of that form of verdict in all doubtful cases is its vindication and recommendation to English juries if they choose to adopt it, and it is not right either that juries should be driven to say on their oaths "guilty," when there may be a doubt, or "not guilty," when on the probabilities before them that verdict can scarcely be true.

If the number of men requisite to form a jury were not fixed, a good deal might be said to show that fifteen men should not be kept from their business, as in Scotland, to try criminals who have stolen a quarter of a pound of butter, or a handkerchief, or a sheet. A smaller number might do, say six or nine, and the verdict ought to be returned by a majority of not less than two-thirds. That it should be impossible for a simple majority of one to find a fellow creature guilty of murder, is a state of matters to shudder at; and it ought not to be. The last trial for murder, in Glasgow, save one, was nearly a tragedy owing to this state of the law; for seven of the jury were for finding two sisters, the Milligans, guilty of that frightful crime, without any evidence at all.

When one hears of a verdict of that kind he is inclined to doubt, as I often do, whether administering an oath to juries be not a waste of time. I hardly think it has any influence at all. The honest men make up their minds (if they do not do as the judge bids them) without thinking of an oath, and just as they would do in reference to any of the affairs of ordinary life. Indeed, some judges tell them to do so, if counsel have ventured to call their attention to the obligation of an oath; and my conviction is that it has not the least effect, and that almost universally the motives of jurymen are such that they do not need it.

I should even go further and doubt the utility of administering oaths to witnesses. An honest man will not tell a lie although not on oath, and a dishonest man will not refrain from lying for any moral or religious consideration. The punishment of perjury alone deters from telling what is not true; and falsehood in a court of justice could still be an indictable offence, although oaths were abolished. To those who are in the habit of taking oaths they become quite indifferent; and it is only necessary to hear a few policemen swear, to appreciate the levity with which oaths are taken, and to cross-examine a few policemen to know that the superficial levity has penetrated to the conscience and beyond it. I believe the simple word of a policeman, or a lawyer, or a doctor, or any *skilled* witness, as readily as his oath. Generally, professional men feel the weight of honour and reputation quite as much as of religion; and a mind which owns the force of religion will not be dead to honour. So that it comes to this:—with honest witnesses no oath is needed; and over dishonest witnesses there is no check except the fear of punishment of the most immediate kind.

But if oaths are to be administered, as they will be for some time yet, I think that it should be left to either of the parties to call upon the judge to administer the oath to witnesses who in their opinion may be more surely bound by it, and that the Scotch system of administering them is better than the English, as it gives the judge who says the words which the witness repeats, an opportunity of seeing through the witness, if he have any faculty in that way, and it has, besides, a more solemn effect than if it be done by the usher or other inferior officer of court. To a student of physiology I fancy kissing a dirty New Testament which has been kissed by thousands is neither a pleasant nor a solemn operation.

The Scotch law admits in evidence against a prisoner one statement not given on oath, which is what is called his "declaration." As soon as possible after his apprehension, and before he can take advice, which, indeed, is shut out from him, the accused is taken before the sheriff or other magistrate, who tells him what the crime is with which he is charged; that the procurator-fiscal, who is present, is to ask him questions about his participation in that crime; and that he need not answer them unless he please, but that his answers will be taken down, and may be used in evidence against him. If the accused be an experienced criminal, or an intelligent one, he knows how much the declaration told against himself on some former occasion, or how it led to the conviction of some of his associates, so he tells the fiscal his age, that he is an Irishman and unmarried, and declines to answer all questions as to the charge made against him. But if he be inexperienced in criminal matters, if he has not been posted up by wary rogues as to the dangers of giving a declaration, if it be his first offence, and his nature is comparatively simple and innocent, he perhaps confesses or enters into awkward explanations, or says things that are not exactly true, and then every confession, lame explanation, and little falsehood, is used against him in evidence; the theory of the law being, that every thing he has said may tell against him, but nothing he has said can tell in his favour. I remember seeing two men tried at Glasgow circuit for the theft of a ham. The evidence by witnesses against the two was the same, but in his declaration the one had said nothing, and the other had denied being in a certain place where he was proved to have been, though he might have forgotten, as he was half-drunk. The judge directed an acquittal of the thief who had declared nothing, and left the case of the other to the jury, who, by a majority, found him guilty—on somewhat insufficient grounds as I thought, though I was not his counsel. And I have seen a great many criminals convicted who would have escaped, had it not been for their unsuspecting "declarations." Some may and do say, "Well and good, these convictions are so much gain to justice." But I say and think differently. I think that to take advantage of a prisoner's ignorance and simplicity, however in accordance with Scotch "pawkiness," is to do a mean and dishonourable act, which outrages the moral sense, and which no court of justice in a civilised country should stoop to countenance. Every argument that can be urged in favour of declarations can be urged in favour of torture, of which they are, indeed, a thinly disguised and refined species adapted to this highly refined and delicate age. For the mind can be laid on the rack as well as the body; and to a solitary human creature, suddenly accused of crime, shut off from friend and counsellor, oppressed and confused with terror, smitten down, it may be, by a sense of guilt, the magistrate and the accuser, and the officials that surround them, are neither more nor less than instruments to extract a confession somewhat more conformable to modern notions than the thumbscrew and the iron boot and red-hot pincers. It is high time that Scotch criminal jurisprudence were rid of this blot; and I feel that our help will come either from every one in Scotland getting to know that a declaration is always dangerous and never can serve the accused, or from England saying that unfair advantage ought not to be taken of ignorance and simplicity; for I fear that most of our Scotch lawyers who have served under the Crown as public prosecutors, will be ready to apologize for a system which they find to be very convenient, however hard upon unfortunates who want intelligence and cunning.

I have done, restraining myself from mentioning some small points of no great interest, and from one or two because the state of my information did not enable me to discuss them, and one of them was the very insufficient notice that a prisoner in England gets of the case that is to be made against him. He does not appear to be entitled to a copy of the indictment, and he is not entitled to a list of witnesses, to enable him to inquire into what they have to say against him, and meet it. I dare say the English mind is more rapid in apprehension than the Scotch; yet a system which must abound in surprises ought to exist anywhere except in courts of criminal justice. Probably when England obtains its staff of public prosecutors, prisoners will obtain fuller information to help them to prepare their defence.

Admission of Attorneys.

Queen's Bench.

NOTICES OF ADMISSION.

Michaelmas Term, 1860.

[The clerk's names appear in small CAPITALS, and the attorneys to whom articled follow in ordinary type.]

BEATY, WILLIAM HENRY RANDALL.—G. M. Evans, Farnham; G. W. C. Dean, 27, New Broad-street.

BELLINGHAM, JAMES GORDON.—W. B. Freeland, Saffron Walden.

BURT, HENRY MATTOCK.—J. Cutts, Gray's-inn.

CLARKE, GEORGE WILLIAM.—E. Coxwell, Southampton.

CURTLER, JOHN ASHMORE.—J. Curtler, Droitwich.

DUMBLETON, HORATIO, B.A.—J. T. Bolton, Solihull.

FOX, ALFRED.—J. E. Fox, Finsbury-circus; J. E. Fox, jun., Finsbury-circus.

GARDNER, JAMES.—R. Swan, Lancaster.

GODDARD, WILLIAM JOHN.—F. Charsley, Amersham.

KANE, EDWARD.—J. E. Prowles, Monmouth.

LESLIE, LEWIS JOHN.—C. B. Dryden, Lincoln's-inn-fields.

MINSTER, ARTHUR.—R. H. Minster, Coventry.

TAYLOR, WILLIAM.—C. F. Darwall, Walsall.

THOMAS, EDWARD FAITHFULL.—J. Walker, Chester.

WALSH, PERCIVAL LEWIS.—F. J. Coleridge, Ottery St. Mary; J. Leech, 65, Moorgate-street.
WHITFIELD, OCTAVIUS.—1, Mitre-court, Temple.

Last day of Michaelmas Term, 1860.

BARNARD, JOSEPH GEORGE.—G. E. Williams, Cheltenham.
BEATY, WILLIAM HENRY RANDALL.—G. M. Evans, Farnham; G. W. C. Dean, 27, New Broad-street.
BURNAND, JOHN THOMAS NEWMAN.—E. E. D. Grove, 8, Angel-terrace, Islington; John George Hick, 13, Copthall-court.
BUSBY, SILAS.—J. D. Sympson, 7, Golden-square.
COLLINS, JOHN.—J. Atkinson, Whitehaven.
FORD, WHARTON.—M. Ford, 8, Lincoln's-inn-fields.
GARRETT, RICHARD EYDON.—W. P. Scott, 55, Lincoln's-inn-fields.
HARMAN, JOHN.—C. Harman, High Wycombe; W. Pulley, Edmonton.
HOLT, THOMAS.—J. Rowe, Liverpool.
HUMPHREYS, ARTHUR.—E. Cunliffe, Manchester.
JEHU, RICHARD.—R. Cattarns, 33, Mark-lane.
JONES, EDWIN.—W. Manby, Wolverhampton.
JONES, GEORGE AP. EYTON PARRY.—E. Potts, Chester.
KING, JOHN.—J. W. King, Walsham-le-Willows.
KRUGER, HENRY JAMES.—C. Fiddey, Inner Temple; C. Bevan, Small-street, Bristol.
LEECH, SAMUEL.—E. Gamble, Derby.
LOVESY, RICHARD WHITHORNE (Judge's Order).—E. S. Griffiths, Cheltenham; W. Matthews, Gloucester.
MABER, GEORGE MARTIN.—John Gaskoin, Swansea.
MARSHALL, EDWARD FIELD.—John Hough Marshall, Hatton-garden.
NANSON, HENRY.—Henry Vallance, Essex-street, Strand.
PARRY, HENRY EDWARD.—Hugh Jones, Carnarvon.
SERJEANT, FREDERICK ROBERT.—John Serjeant, Ramsey.
TEMPLE, JOHN ALFRED.—T. H. Scarborough, 5, Bloomsbury-square.
WYATT, GEORGE HARVEY.—J. H. Hearn, Newport; J. A. Mew, Newport.

APPLICATIONS FOR RE-ADMISSION.

Last day of Michaelmas Term, 1860.

Bower, John.—Bryn Helen, Carnarvon.
Davies, Walter David.—35, Grafton-square, Clapham; and 23 Finsbury-square.

Last day of Hilary Term, 1861.

Heron, Joseph, Manchester.
Kell, William Ghrimes, 112, Westbourne-terrace, Hyde-park.

APPLICATIONS TO TAKE OUT OR RENEW CERTIFICATES.

November 16, 1860.

Lawrance, William, Fletton, Hunts, and Peterborough.

Last day of Michaelmas Term.

Fell, George, 8, Gerrard-street, Islington.
Lapenotiere, William, 5, St. Stephen's-terrace, St. Pancras; East Oxford, Upper Canada; 10, Bloomsbury-square; and 18, Great Ormond-street.

November 27, 1860.

Abbott, William, Rochdale.
Acland, Samuel Lawford, Bombay, East Indies.
Beilby, George, jun., Kingston-upon-Hull.
Bolton, John, 90, Fetter-lane, Holborn.
Bower, Charles, 19, Clifford-street; 66, Great Portland-street; and 416, Oxford-street.
Bozon, Frederick, 35, Olney-terrace, Walworth-road.
Burrell, Edward Montague, Ironmonger's Hall.
Charlesworth, Charles Henry, Hanover-square, Leeds.
Church, Francis, Hungerford, Berks.
Claris, Percy Brooke, Dover.
Cockle, Charles Moss, 8, and 14, Ovington-square, Brompton.
Coe, Augustus Frederick, 4, Rosslyn-terrace, Hampstead.
Cooke, Joseph Percy (Judge's Order), 10, Aberdeen-terrace, Bristol.
Cooper, William, 14, Brompton-crescent.
Cousen, George, Birkenshaw, near Leeds, and 24, Arundel-street, Strand.
Dashwood, William Halsey, 43, James-grove, Peckham.
Drawbridge, William, Wakefield.
Feuillade, Francis, 22, Bute-street, Old Brompton.
Finch, John, 9, Denbigh-terrace, Notting-hill.
Gibbs, Griffith, Gloucester.
Godwin, Henry Burke, Speen-hill, near Newbury.
Gough, Charles Selwyn, Kingsholm, Gloucester; and Overbury, Worcester.
Harrison, Thomas Haydon, Chase-hill, Enfield.
Hilliard, Thomas Harvey, Wolstanton, Stafford; Harrowgate; and Brixton.
Howlett, Francis John, Bowthorpe, Norfolk; and Everton, near Liverpool.
Hunt, Thomas, Lytham, Lancaster.
Ivimey, Henry, 2, Ampthill-square, Hampstead-road.
Johnson, Edward Davey, 7, Albemarle-street, Piccadilly; Pernambuco, in the empire of Brazil; and Ickford.
Kimberley, James William, 32, Camden-street, Birmingham.
Lander, George Moseley, 2, St. Paul's-crescent, Camden-town.
Law, Robert Dalton, Manchester.
Lawrance, William, Fletton, Huntingdon; and Peterborough.
Le Pipre, Peter, Folkestone.
Mac Gregor, Joseph Alexander James, 9, Howard-street, Strand; Melbourne; and Walcott-place, Kennington.
Massey, Henry Eyre, 43, St. Albans-street, Kennington-road; and Lambeth-square.
New, Frederick Bayly, 24, Dalston-terrace; and 22, Albion-grove, Barnsbury.
Nichols, Samuel, 17, Offord-road, Caledonian-road; and Cumming-street, Pentonville.
Nicholson, Alfred, St, Ives; and Bedford.
Orlebar, Charles Daniel, 12, Pakenham-street, St. Pancras.
Pain, William Henry Bellew, 31, Swinton-street; and 6, Jermyn-street.
Parker, Thomas, Greenwich; and 1, Pump-court, Temple.
Prentis, Henry, Bombay; and Penang.
Prichard, Charles Edward, Lower Goalford, Ludlow, Salop; Christchurch, New Zealand; High Seas; Penzance; Weston-Super-Mare; and Bewdley, Worcester.
Ravenhill, James Holmes, 25, Maismore-square, New Peckham.
Scott, Montagu Douglas (Judge's Order), Putney, Surrey.
Sheppard, Charles Edward, Rivers-cottage, Clifton.
Smith, Henry John, 23, Denbigh-place, Pimlico.
Stace, Edward Keate, Hong Kong, China; and Southampton.
Strong, William, 30, Bouverie-street, Fleet-street.
Tayler, William, Gloucester-road, Tutshill, Gloucester; Bath; and Bristol.
Taylor, George, 106, Ebury-street, Pimlico; and Belgrave-street, South Ebury-street.
Taylor, Joseph William, 1, Canute-villas, Kingsholme, Gloucester.
Tocque, George Richard Fletcher Howes, Richmond, Surrey.
Tooth, Robert, 5, New-inn; Buckingham-street; Putney; and Richmond.
Venning, John James Edgcombe, 7, Lothbury, City.
Watson, Henry, jun., 22, Lincoln's-inn-fields.
Whatley, David, Cirencester, Gloucester.
Whyley, Mark, Leighton Buzzard, Beds.
Wilmshurst, John, Warwick.
Wingfield, Henry George Eden, Keynsham, Somerset.
Woodall, William, Otter, Scarborough.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Monday, Nov. 12.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Friday, Nov. 16.

Mr. Henry Butterworth, the eminent law publisher of Fleet st., died on Friday, the 2nd inst., rather suddenly, from congestion of the lungs. He was in the 75th year of his age, and was one of the oldest of literary publishers in the metropolis. Mr. Butterworth had been, until shortly before his death, actively engaged in the business with which his name was identified, and in matters of public usefulness.

The Electric and International Company employ nearly

two hundred young women at their various offices, and speeches occupying entire pages of the *Times* have been transmitted from the north and transferred to writing in a few hours by young women alone, and with wonderful accuracy. This success is a great encouragement to those who have the conduct of new institutions where men have not yet gained exclusive possession.

Court Papers.

Chancery.

ORDER OF COURT.

Wednesday, the 7th day of November, 1860.

Whereas from the present state of the business before the Lord Chancellor and the Master of the Rolls respectively, it is expedient that a portion of the Causes set down before the Lord Chancellor to be heard before the Vice-Chancellor Sir William Page Wood, should be transferred to the Master of the Rolls' Book of Causes for hearing.

Now I do hereby, at the request of the Master of the Rolls, order that the several Causes set forth in the schedules hereunto subjoined, be accordingly transferred from the Book of Causes of the Vice-Chancellor Sir William Page Wood to that of the Master of the Rolls. And I do further order that all Causes so to be transferred (although the bills of such Causes may have been marked for the Vice-Chancellor, Sir William Page Wood, under the Orders of Court of the 5th of May, 1857—Order VI. of Consolidated Orders—and notwithstanding any Orders therein made by the Vice-Chancellor Sir William Page Wood, or his predecessor), shall hereafter be considered and taken as Causes originally marked for the Master of the Rolls, and be subject to the same regulations as all Causes marked for the Master of the Rolls are subject to by the same Orders: Provided, nevertheless, that no order made by the Vice-Chancellor, Sir William Page Wood, or his predecessor, in any such Causes, shall be varied or reversed otherwise than by the Lord Chancellor or the Lords Justices. And this Order is to be drawn up by the Registrar, and set up in the several offices of this Court.

CAMPBELL, C.

SCHEDULE.

Plaintiff.	Defendant.	Reference to Record.			
Lemon	Whimper	Motion for Decree	1857 ..	L ..	109
Whitmore	Turquand	Motion for Decree	1860 ..	W ..	160
Heywood	Heywood	Motion for Decree	1860 ..	H ..	99
Clayton	Cowlard	Motion for Decree	1859 ..	C ..	184
Masters	Bunn	Cause	1858 ..	M ..	155
Hinds	Bone	Motion for Decree	1859 ..	H ..	122
Wolffram	Upward	Cause	1859 ..	W ..	65
Hale	Bolton	Motion for Decree	1860 ..	H ..	76
Holden	Webber	Cause	1859 ..	H ..	97
Stovold	Stovold	Motion for Decree	1860 ..	S ..	58
Morgan	Redman	Motion for Decree	1859 ..	M ..	174
Talbot	Crossley	Motion for Decree	1860 ..	T ..	27
Duffield	Carrie	Motion for Decree	1860 ..	D ..	60
Jones	Dixon	Cause	1858 ..	J ..	70
Ball	Williams	Motion for Decree	1858 ..	B ..	245
The Prince Alexandre Torlonia	The Wiesbaden Railway Company	Motion for Decree	1860 ..	T ..	63
Lywood	Warwick	Motion for Decree	1860 ..	L ..	48
Garner	Garner	Cause	1859 ..	G ..	19
The London, Brighton and South Coast Railway Company	Turnley	Motion for Decree	1860 ..	L ..	34
Garrick	Tayler	Cause	1859 ..	G ..	112
Hughes	Lewis	Cause	1854 ..	H ..	63
Webb	England	Motion for Decree	1860 ..	W ..	55
Norris	Chambres	Cause	1857 ..	N ..	36
Badham	Allen	Motion for Decree	1859 ..	B ..	228
Crooks	Begg	Motion for Decree	1859 ..	C ..	24
Hale	Bolton	Motion for Decree	1860 ..	H ..	76
Nugee	Chapman	Motion for Decree	1860 ..	N ..	12
Cooper	Hubbuck	Motion for Decree	1860 ..	C ..	24
Heath	Nugent	Motion for Decree	1860 ..	H ..	95
Ley	Clift	Motion for Decree	1859 ..	L ..	132

CAMPBELL, C.

N.B.—The Master of the Rolls will not hear any of the above Causes before the 20th day of November instant, unless by the desire of the parties themselves.

CECIL MONRO, Registrar.

Queen's Bench.

NEW CASES.—MICHAELMAS TERM, 1860.

SPECIAL PAPER.

Dem.	Eastwood v. Fletcher.
"	Dutton and Another v. Powles.

Common Pleas.

NEW CASES.—MICHAELMAS TERM, 1860.

DEMURRER PAPER.

November 14.

Dem.	Cochrane v. Green.

November 19.

Dem.	Earle v. Hopwood.
"	Beade v. Conquest.
"	Oxlade v. North Eastern Railway Company.
Co. Court App.	Dunn, Appellant; Lawson and Others, Respondents.
Case by order.	The Mersey Docks and Harbour Board v. Cameron and Others.
Case Nisi Prius.	The Medway Company v. The Earl of Romney.
Dem.	Brown and Others, Executors, &c., v. The Mayor, &c., of the City of London.

NEW TRIAL PAPER.

Middlesex.	Paris v. Levy.
"	Ralston v. Smith.
"	Crosse v. Martin.
London.	Pole and Another v. Cetcovich.
"	Smith and Others v. Vertue and Another.
"	Yeames and Others v. Lindsay and Others.
"	Jones v. Newport.
Beds.	Hartwell v. Veasey and Wife.
Cambridge.	Hunt and Others, Churchwardens, &c., v. Allgood and Others.
Stafford.	Whitehouse v. Fellowes, Clerk.
Bristol.	Haller v. Warman.
Kent.	Brady v. Tod.
"	Berridge v. Ward.
Surrey.	Wilton v. The Atlantic Royal Mail Steam Navigation Company.
"	Fielder v. Marshall.
"	Hotson v. Howitt.
Sussex.	Hare v. Henty and Another.
"	Turner v. Hutchinson.
Liverpool.	Chapman v. Callis.
"	Wilson v. The Lancashire and Yorkshire Railway Company.
York.	Oxlade v. The North Eastern Railway Company.
"	Walker v. The Manchester, Sheffield, and Lincolnshire Railway Company.
Durham.	M'Sweeny v. Douglass.

Notice is hereby given that the Court has appointed Thursday, the 15th, and Tuesday, the 20th of November inst., for hearing and deciding the appeals from the decisions of the revising barristers under the Act 6 Vict. c. 18, on which days the Courts will proceed to hear the same; but the case of *Brumfitt and Others* v. *Brenmer*, in the list of such appeals will not be proceeded with before the 20th instant.

English Funds and Railway Stock.

(Last Official Quotation during the week ending Friday evening.)

English Funds.		Railways—*Continued.*	
	Shrs.		
Bank Stock	232	Stock Ditto A. Stock	117
3 per Cent. Red. Ann.	91¾	Stock Ditto B. Stock	134
3 per Cent. Cons. Ann.	93½	Stock Great Western	73⅜
New 3 per Cent. Ann.	91⅜	Stock Lancash. & Yorkshire	117½
New 2½ per Cent. Ann.	..	Stock London and Blackwall.	62½
Consols for account	93⅜	Stock Lon. Brighton & S. Coast	115
India Debentures, 1858.	..	25 Lon. Chatham & Dover	52
Ditto 1859.	..	Stock London and N.-Wstrn.	100¾
India Stock	..	Stock London & S.-Westrn.	94⅞
India 5 per Cent. 1859	103⅜	Stock Man. Sheff. & Lincoln.	46½
India Bonds (£1000)	8 dis.	Stock Midland	133⅜
Do. (under £1000)	..	Stock Ditto Birm. & Derby	108
Exch. Bills (£1000)	..	Stock Norfolk	55
Ditto (£500)	3 dis.	Stock North British	62⅜
Ditto (Small)	..	Stock North-Eastn. (Brwck.)	102⅜
		Stock Ditto Leeds	58⅜
		Stock Ditto York	88½
Railway Stock.		Stock North London	104
Shrs.		Stock Oxford, Worcester, & Wolverhampton	..
Stock Birk. Lan. & Ch. Junc.	80		
Stock Bristol and Exeter	96	Stock Shropshire Union	51
Stock Cornwall	62	Stock South Devon	44
Stock East Anglian	17	Stock South-Eastern	85½
Stock Eastern Counties	52½	Stock South Wales	67
Stock Eastern Union A. Stock	40	Stock S. Yorkshire & R. Dun	79
Stock Ditto B. Stock	29	25 Stockton & Darlington	40½
Stock Great Northern	118	Stock Vale of Neath	70

Births, Marriages, and Deaths.

BIRTHS.

BARRON—On Nov. 3, 96, Guildford-street, the wife of Edward Jackson Barron, Esq., Solicitor, of a daughter.

BECKINGSALE—On Nov. 2, the wife of William Jefferies Beckingsale, Esq., Solicitor, Newport, Isle of Wight, of a son.

MARRIAGES.

LLOYD—NEVINS—On Nov. 1, Rowley Young Lloyd, Esq., Barrister-at-Law, to Mary Elizabeth, daughter of John Jowitt Nevins, Esq., of Cleve Dale, Gloucestershire.

POTTS—HARRIS—On Oct. 31, Henry John Potts, Esq., of Daventry, Solicitor, to Jane, youngest daughter of the late William Harris, Esq., of Fairfield Court, Worcestershire.

DEATHS.

BOYSE—On Oct. 29, Mrs. Boyse, wife of John Boyse, Esq., Solicitor, of Woodlands, county Clare.

BURTON—On Oct 31, Elizabeth, relict of the late Henry Burton, Esq., Barrister-at-Law, aged 66.

BUTTERWORTH—On Nov. 2, in the 76th year of his age, Henry Butterworth, Esq., F.S.A., of Fleet-street.

CHALLIS—On Nov. 4, Emma, wife of William Challis, Esq., Solicitor, Basingstoke, in the 44th year of her age.

PINSON—On Oct. 30, John Pinson, Esq., Solicitor, of Birmingham.

WALKER—On Oct. 31, aged 62, Mrs. Sarah Walker, of York, mother of W. Walker, Esq., Solicitor.

WHITLEY—On Oct. 31, aged 62, Isabella, wife of John Whitley, Esq., Solicitor, Liverpool.

Heirs at Law and Next of Kin.

Advertised for in the London Gazettes *and elsewhere.*

BRISSINGTON, JOHN, who died lately in Newborn, North Carolina, United States of America. Next of kin to apply to James Fairbarn, Esq., 25, Tower-street, Portobello, near Edinburgh.

MOSES, AARON, who was formerly an Innkeeper at Billericay, Essex. Heirs at law to apply to William Brown, Esq., Solicitor, Nottingham.

RICKARD, HENRY, who formerly resided at Doncaster, and when last heard of (in the year 1845), was a seaman on board the American ship Saracen. Himself, or if dead, his representatives to apply to Messrs. Collinson & Littlewood, Solicitors, Doncaster.

London Gazettes.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, Nov. 6, 1860.

LITTLE DOWN AND EBBER ROCKS MINERAL AND MINING COMPANY (LIMITED). Commissioner Holroyd will proceed on Nov. 22, at 11, at Basinghall-street, to settle the list of contributories of this company in Class A.

UNLIMITED IN CHANCERY.

TUESDAY, Nov. 6, 1860.

PHŒNIX LIFE ASSURANCE COMPANY.—V.C. Wood, will proceed, on Nov. 22, at 12 and 1, to settle the lists, classes A. and B. of contributories of this company.

FRIDAY, Nov. 9, 1860.

UNLIMITED, IN CHANCERY.

MITRE GENERAL LIFE ASSURANCE ANNUITY & FAMILY ENDOWMENT ASSOCIATION.—Master of the Rolls order to wind up. Nov. 3.

LONDON & EASTERN BANKING CORPORATION.—V.C. Wood, order for a call of £75 per share on all contributories in classes A and B; class A, on or before Dec. 15, to pay to Mr. John Ball, Official Manager, 3, Moorgate-street, London, the balance of such call; class B, on or before Feb. 18, 1861, to pay to the said John Ball the balance due on such call.

PHŒNIX LIFE ASSURANCE COMPANY.—V.C. Wood will, on Nov. 22, at 12 and 1, proceed to settle the lists, classes A and B, of contributories of this company.

LIMITED IN BANKRUPTCY.

CARDIFF & CAERPHILLY IRON COMPANY (LIMITED).—Order to wind up, Nov. 1. Same time George John Graham appointed Official Liquidator. Meeting for proof of debts, Nov. 16, at 11.

LONDON & BOROUGH STEAM WHEEL COMPANY (LIMITED).—Meeting for proof of debts, before Commissioner Evans, Basinghall-street; Nov. 20, at 2.

Professional Partnership Dissolved.

TUESDAY, Nov. 6, 1860.

MORGAN, JOHN, & WILLIAM ROBINSON SMITH, Attorneys & Solicitors, at Merthyr Tydfil and Aberdare, Glamorganshire, by mutual consent. Nov. 1.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Nov. 6, 1860.

BAKER, WILLIAM, Esq., Eaton-square, Middlesex, and Orsett Hall, Essex (formerly WILLIAM WINGFIELD, Esq.) Bennett, Dawson, & Thornhill, Solicitors, 2, New-square, Lincoln's-inn. Dec. 31.

BOWMAN, SARAH, Widow, Stockdewath, Castlesowerby, Cumberland. M'Alpin, Solicitor, Carlisle. Nov. 20.

BRADDON, WILLIAM, Esq., late of Blackland, Plympton St. Mary, Devonshire, formerly of the Bengal Civil Service. Cowlard, Solicitor, 14, Lincoln's-inn-fields. Jan. 1.

DOSSETT, JOSEPH, Gent., 4, Clapton-place, St. John, Hackney, Middlesex. Loftus & Young, Solicitors, 10, New-inn, Strand. Dec. 31.

HALL, JAMES WALLACE RICHARD, Banker, Springfield, Ross, Herefordshire. Evans, Solicitor, Gloucester. Feb. 1.

IVINS, EDWARD, Farmer, Butler's Marston, Warwickshire. Tibbits, Church-street, Warwick. Dec. 15.

LEIGH, ELIZABETH, Spinster, 15, Half Moon-street, Piccadilly, Middlesex. Palmer, Palmer, & Bull, Solicitors, 24, Bedford-row, Holborn. Nov. 14.

LOCKING, GEORGE, late Secretary to the Hull and Selby Railway Company, Kingston-upon-Hull. Phillips, Solicitor, 77, Lowgate, Hull. Jan. 31.

MOORE, EDWARD, Cotton Spinner, Palace House, Burnley, Lancashire. Shaw, Sutcliffe, Tattershall, & Handsley, Burnley. Dec. 7.

POTTINGER, RICHARD, Esq., formerly of Wood Rows, Compton, Berks, and late of Speenhamland, Berks. Whatley & Dryland, Solicitors, Reading. Dec. 20.

STORKS, Rev. THOMAS TAUNDLE, Clerk, Loughton, Essex. Coverdale, Lee, & Collyer-Bristow, 4, Bedford-row, Middlesex. Dec. 15.

WARD, WILLIAM, Farmer, Leicester. Spooner, Solicitor, Horsefair-street, Leicester. Jan. 1.

FRIDAY, Nov. 9, 1860.

BRADBURY, HENRY RILEY, Bank-note Engraver & Printer. Benham & Tindell, Solicitors, 18, Essex-street, Strand. Dec. 31.

BRADLEY, WILLIAM ORTON, Timber Merchant, Bishopwearmouth, Durham. Ranson & Son, Solicitors, 12, East-cross-street, Sunderland. Feb. 3. 1861.

CASTELL, EDWARD, Innholder, Daventry, Northamptonshire. Lewis, Solicitor, Daventry. Dec. 1.

DICKS, JAMES, Gent., Newnham, Northamptonshire. Gery, Solicitor, Daventry. Dec. 10.

FAWKES, MARMADUKE, Miller, Claybrook Mill, Leicestershire. Fox, Solicitor, Lutterworth. Dec. 31.

HALL, JOHN, Esq., Weston Colville, Cambridgeshire. Burley & Carlisle, Solicitors, 8, New-square, Lincoln's-inn, Middlesex. Dec. 15.

HAZELL, DAVID, Yeoman, Mead, Wantage, Berks. Ormond, Solicitor, Wantage. Dec. 31.

LEVER, MARY, Widow, Fovant, Wilts. Wilson, Solicitor, Salisbury. March 23, 1861.

NICHOLS, SUSANNAH, Draper, Olney, Buckinghamshire. Powell & Newman, Solicitors, Newport Pagnell. Dec. 1.

SAYCHELL, TIMOTHY, Hatter, 156, Fenchurch-street, London, and Wormley House, Wormley, Herts. Satchell, Widow, Wormley House, Wormley, Herts, Satchell, Hatter, 49, Lord-street, Liverpool, or Redgate, Export Cheesemonger, 13, George-street, Mansion House, London, Executors. Dec. 26.

SAWYER, JAMES, Gent., Totness, Devonshire. Kellock & Kellock, Solicitors, Totnes. Dec. 29.

SLOPER, JAMES, Esq., Bath. Stone, Chamberlayne, & King, Solicitors, Bath. Feb. 6, 1861.

WINNALL, MARGERY YAPP, Widow, Burton, Linton, Hereford. Stallard, Solicitor, Worcester. Dec. 2.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, Nov. 9, 1860.

BARNES, RICHARD, Farmer & Maltster, Hampton Lucy, Warwickshire Watts *v.* Barnes. M. R. Dec. 3.

BROOKS, GEORGE, Licensed Victualler, Cross Keys' Hotel, West Smithfield, London. Hooper *v.* Brooks. V. C. Stuart. Nov. 26.

BURT, JOHN, Jeweller, Birmingham, Holden *v.* Eborall. V. C. Stuart. Dec. 3.

FOULSHAM, ELIZABETH, Spinster, Wrexham, Norfolk. Clarke *v.* Chamberlin. V. C. Kindersley. Dec. 3.

GILLHAM, WILLIAM, Esq., Mare-street, Hackney, Middlesex. Berger *v.* Berger. M. R. Dec. 1.

GRIFFITHS, DAVID, Silk Mercer, 1, Chandos-street, Covent-garden, Middlesex. Louvet *v.* Shearly. M. R. Dec. 2.

JERVIS, JOHN, Esq., Inner Temple, London. Jervis *v.* Rushton. V. C. Kindersley. Dec. 3.

KEELING, THOMAS, Auctioneer, Edgware-road, Middlesex. V. C. Kindersley. Dec. 8.

MAJOR, WILLIAM, Doctor of Medicine, Camberwell, Surrey. Smith *v.* Major and Others. V. C. Stuart. Dec. 10.

MICKLETHWAIT, JOHN, Esq., Shepcote, Ardsley, Darfield. Birks *v.* Micklethwait. M. R. Dec. 1.

PEARMAN, LUKE, Gent., Barkeswell, Warwickshire. Pearman *v.* Pearman. M. R. Dec. 1.

POINTON, WILLIAM, Gent., Burslem, Staffordshire. Pointon *v.* Pointon. V. C. Stuart. Dec. 12,

SHOULS, RICHARD, Plumber, Painter, & Glazier, 53, Leman-street, Goodman's-fields, Middlesex. Shouls *v.* Dew. V. C. Stuart. Dec. 10.

Assignments for Benefit of Creditors.

TUESDAY, Nov. 6, 1860.

FOOTE, THOMAS FREDERICK, Shopkeeper, Henstridge, Somersetshire. Nov. 3. *Sol.* Jellard, Wincanton.

GILL, FRANCIS, Miner, formerly Draper & Grocer, Mount Hawke, Cornwall Oct. 24. *Sol.* Paull, Truro.

GRIFFIN, JAMES, Baker & Flour Dealer, Louth. Oct. 16. *Sol.* Sharpley Louth.

MAC KNIGHT, JAMES, & JOHN MAC KNIGHT, Woollen Manufacturers, Carlisle. Oct. 29. *Sol.* McAlpin, Carlisle.

PHILLIP, JABEZ, sometimes called JAMES, General Grocer, Northing Sussex. Nov. 3. *Sols.* E. & J. Holmes, Arundel.

PERRIN, ANDREW, Draper, Broad-street, Worcester. Oct. 10. *Sol.* Atkins, 2, St. James's-square, Manchester.

RICHARDS, GEORGE, Wholesale Stationer and General Dealer, Bristol. Oct. 11. *Sols.* Stanley & Wasbrough, 11, Corn-street, Bristol.

STEVENS, THOMAS BOUTLEDGE, Leather Merchant, Newcastle-upon-Tyne Oct. 16. *Sol.* Joel, Newcastle-upon-Tyne.

FRIDAY, Nov. 9, 1860.

ASHBY, SAMUEL, Currier, Northampton. Oct. 20. *Sol.* Shoosmith, Northampton.

GROSVENOR, WILLIAM, Builder, Elberton, Gloucestershire. Oct. 30. *Sols.* King & Plummer, 5, Exchange-buildings, East Bristol.

PAGE, LUTHER, Miller, Hellingly, Sussex. Oct. 26. *Sol.* Sinnock. Hailsham.

PIKE, CHARLES, Pawnbroker, Sheffield, Yorkshire. Oct. 19. *Sols.* G. A. & W. Emsley.

Bankrupts.

TUESDAY, Nov. 6, 1860.

BAKER, WILLIAM WILCOX, & HENRY SENDALL, Manufacturing Stationers, 67, Old Bailey, London. *Com.* Evans: Nov. 16, at 12.30; and Dec. 20, at 1; Basinghall-street. *Off. Ass.* Bell. *Sol.* Brutton, 27, Basinghall-street. *Pet.* Nov. 5.

BALL, CHARLES GRAY, Coal Merchant & Provision Dealer, Peterborough, Northamptonshire. *Com.* Evans: Nov. 13, and Dec. 11, at 12; Basinghall-street. *Off. Ass.* Bell. *Sols.* Wright & Bonner, London-street, Fenchurch-street; and Law, Stamford, Lincolnshire. *Pet.* Oct. 30.

DANIEL, GEORGE MARK PALMER, Ironmonger, Camelford, Cornwall. *Com.* Andrews: Nov. 20, and Dec. 19, at 12: Exeter. *Off. Ass.* Hirtzel. *Sols.* Rowe, Stratton, Cornwall; Laidman, Exeter; or Fryer, St. Thomas Exeter. *Pet.* Oct. 27.

LAURIE, THOMAS WILLIAM, trading under the name of Thomas Laurie, Innkeeper, Livery Stable Keeper, & Farmer, Bishop Auckland, Durham. *Com.* Ellison: Nov. 14, at 12; and Dec. 19, at 12.30; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Hartley, 14, Gray's-inn-square, London; or Brignal, Durham. *Pet.* Nov. 1.

LEE, WILLIAM, & HENRY SMITH, Woollen Cloth Manufacturers, Batley, Yorkshire. *Com.* West: Nov. 16, and Dec. 14, at 11; Leeds. *Off. Ass.* Young. *Sols.* Iveson, Heckmondwike; or Bond & Barwick, Leeds. *Pet.* Oct. 16.

NAPIER, JAMES, Ship Owner & Carrier, Rhyl, Flintshire. *Com.* Perry: Nov. 16, and Dec. 10, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Lord-street, Liverpool; or Williams, Rhyl, Flintshire. *Pet.* Oct. 24.

POWELL, WILLIAM, Linendraper, Newport, Monmouthshire. *Com.* Hill: Nov. 19, and Dec. 18, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Reed, Gresham-street, London; or Whittington & Gribble, Bristol. *Pet.* Nov. 2.

RANDALL, FREDERICK, Coach Builder, 372, Whitechapel-road, Middlesex. *Com.* Holroyd: Nov. 20, at 3; and Dec. 18, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* J. & J. Hopgood, 14, King William-street, Strand. *Pet.* Nov. 6.

SIMS, WILLIAM HENRY, Apothecary, Winster, Derbyshire. *Com.* West: Nov. 17, and Dec. 15, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Stone, Wirksworth, Derbyshire. *Pet.* Oct. 27.

STOKES, GEORGE, Provision Dealer, 87, Snow-hill, London. *Com.* Evans Nov. 16, at 11; and Dec 20, at 12; Basinghall-street. *Off. Ass.* John

son. *Sols.* Wright & Bonner, London-street, Fenchurch-street. *Pet.* Nov. 3.

FRIDAY, Nov. 9, 1860.

ARNOLD, ELISHA, Straw Plait Dealer, Grocer, & Baker, Flamstead, Hertfordshire. *Com.* Fonblanque: Nov. 21, at 1.30; and Dec. 19, at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Linklaters & Hackwood, 7, Walbrook, London. *Pet.* Aug. 21.

BAKER, JOHN, Tanner & Farmer, Heathfield, Sussex. *Com.* Fonblanque: Nov. 21, at 2; and Dec. 19, at 12.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Murray, Son, & Hutchins, 11, Birchin-lane, London. *Pet.* Nov. 8.

BOUCH, ROBERT MILLER, General Warehouseman, Clothing Manufacture, & Dealer, & Hydraulic Packer, Liverpool (John Bouch & Son). *Com*, Perry: Nov. 22, and Dec. 12, at 11. *Off. Ass.* Bird. *Sol.* Frodsham Liverpool. *Pet.* Nov. 7.

CLARK, THOMAS, Tanner & Leather Seller, Midhurst, Sussex. *Com.* Fonblanque: Nov. 2, at 11; and Dec. 18, at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Rogerson & Ford, 31, Lincoln's-inn-fields, London, and Albery, Midhurst, Sussex. *Pet.* Nov. 1.

CLAVARDS, WILLIAM, Dealer in Horses, & Cab Proprietor, Conway Mews. Hampstead-street, Fitzroy-square, Middlesex. *Com.* Goulburn: Nov. 19, at 12; and Dec. 21, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Pawle, Belfrage, & Asprey, 7, New-inn, Strand, London. *Pet.* Nov. 5.

COLTMAN, THOMAS, Plumber, Glazier, Painter, & Gas Fitter, Coventry. *Com.* Sanders: Nov. 22, and Dec. 14, at 11; Birmingham. *Off. Ass.* Kinnear. *Sol.* Reeves, Birmingham. *Pet.* Nov. 6.

LLEWELLIN, JAMES, Saddler, Hereford. *Com.* Sanders: Nov. 19, and Dec. 10, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Bodenham & James, Birmingham; or Hodgson & Allen, Birmingham. *Pet.* Nov. 3.

NAPIER, WILLIAM, Coal Merchant, Union Wharf, Wapping Wall, Middlesex. *Com.* Evans: Nov. 20, at 11, & Dec. 20, at 2: Basinghall-street. *Off. Ass.* Johnson. *Sol.* Anderson, 17, Great James-street, Bedford-row. *Pet.* Nov. 5.

PHILLIPS, SAMUEL SMITH, Bonded Store Keeper & Provision Merchant, Bute-street, Cardiff (S. S. Phillips & Co.) *Com.* Hill: Nov. 20, & Dec. 18, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Wilcocks, Cardiff, or Bevan, Girling, & Press, Small-street, Bristol. *Pet.* Nov. 8.

REED, WILLIAM, Carman & Contractor, 4, Salisbury-place, Lock's-fields, Walworth, Surrey. *Com.* Evans: Nov. 22, at 11, & Dec. 27, at 12; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Wild & Barber, Ironmonger-lane. *Pet.* Nov. 8.

RYLAND, GEORGE CROWTHER, Coal & Iron Merchant, Birmingham. *Com.* Sanders: Nov. 19 & Dec. 10. at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham. *Pet.* Nov. 7.

SHEPPARD, ROBERT WATSON, Coal Merchant & Auctioneer, Charlbury, Woodstock, Oxfordshire. *Com.* Goulburn: Nov. 19, at 11; and Dec. 21, at 11.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Nichols & Clark, 9, Cook's-court, Lincoln's-inn, London, for Marshall, Cheltenham. *Pet.* Nov. 8.

STARKEY, RICHARD, Draper, Stroud, Gloucestershire. *Com.* Hill: Nov. 20, and Dec. 31, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Davidson, Bradbury, & Co. 22, Basinghall-street, London, or Whittington & Gribble, Bristol. *Pet.* Oct. 31.

SURMAN, JOHN, Tailor & Outfitter, Royal Crescent, Southampton. *Com.* Holroyd: Nov. 22, and Dec. 18, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Selsby, 2, Fen-court, Fenchurch-street, London. *Pet.* Nov. 8.

BANKRUPTCIES ANNULLED.

TUESDAY, Nov. 6, 1860.

ANDREWS, LABAN, Grocer & Tobacconist, Wells, Norfolk. Nov. 3.

RICHARDS, WILLIAM, Builder, 4, Upper North-place, Gray's-inn-road, Middlesex. Oct. 22.

FRIDAY, Nov. 9, 1860.

STARK, HUMPHREY, Bootmaker, 119, Broad-street, Reading, Berks. Nov. 7.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Nov. 6, 1860.

BARNETT, BENNETT, Dealer in Pictures & Curiosities, 14, Burlington-gardens, Bond-street, Middlesex. Nov. 27, at 11; Basinghall-street.—BROWN, EDWARD, Brewer, Ditton, Warrington, Lancashire. Dec. 3, at 11; Liverpool.—CALLOW, JOSEPH, Ribbon & Trimming Manufacturer, Coventry. Dec. 14, at 11; Birmingham.—FAULKNER, JOSEPH, Baker & Flour Dealer, Liverpool Nov. 27, at 11; Liverpool,—GROSS, FREDERICK AUGUST, Furniture Dealer, Newcastle-upon-Tyne. Nov. 22, at 1; Newcastle-upon-Tyne.—HAMPSON, JOHN, Grocer, Wrexham, Denbighshire. Nov. 27, at 11; Liverpool.—HOAD, WILLIAM DANIEL, Ship Builder, Watchbell-street, Rye, Sussex. Nov. 17, at 11; Basinghall-street, to receive proof of debt of Mr. George Wood, Timber Merchant, Sunderland.—HOLDICH, THOMAS LAW, Ironmonger & Seedsman, Hinckley, Leicestershire. Nov. 29, at 11; Birmingham.—JEFFRYES, JAMES WILSON, & JOHN MEEK, Merchants, Liverpool. Nov. 27, at 11; Liverpool.—JENNENS, AARON, & JOHN BETTRIDGE, Papier Mache Manufacturers & Japanners, Birmingham. Nov. 26, at 11; Birmingham.—KINROSS, HENRY, & JAMES SHAW, Cab & Omnibus Proprietors, Kingston-upon-Hull (Kinross & Shaw.) Nov. 28, at 12; Kingston-upon-Hull; sep. est. same time, of James Shaw.—LEE, THOMAS, Merchant, 5, George-yard, Lombard-street, London, and 1, Edmund-street, Birmingham, Warwickshire. Nov. 29, at 2; Basinghall-street.—LILLEY, THOMAS, Merchant Tailor, North Shields. Nov. 28, at 12.30; Newcastle-upon-Tyne.—MERRICK, WILLIAM HIGGINS, Innkeeper & Commission Agent, Halesowen, Worcestershire. Nov. 19, at 11; Birmingham.—NEWTON, REUBEN, Silk Throwster, Bold-lane Mill, Derby. Nov. 29, at 11; Nottingham.—RAMMAGE, WILLIAM, Ironfounder, the Platts, near Stourbridge, Worcestershire. Dec. 14, at 11; Birmingham.—SHEDDEN, JOHN GREEN, Woollen Draper, Birmingham. Nov. 28, at 11; Birmingham.—SMITH, EDWARD, Printer & Stationer, Birmingham. Nov. 28, at 11; Birmingham.—WELCH, JOHN WELLINGTON, Warp Sizer, Manchester. Nov. 29, at 12; Manchester.

FRIDAY, Nov. 9, 1860.

BLACKBURN, JAMES BERRY, Currier & Leather Seller, Saint Stephen's-plain, Norwich. Dec. 1, at 12; Basinghall-street.—BOTTEN, CHARLES, Brass Flounder, Crawford-passage, Clerkenwell, Middlesex (Charles Botten & Son). Nov. 20, at 2; Basinghall-street.—CLEGG, ROBERT DAWSON, & FREDERICK ANGERSTEIN, Dealers in Atmospheric Clocks, 44, Friday-street, Cheapside, and 73, Fleet-street, London. Nov. 30; at 11; Basinghall-street.—CROSS, CHARLES, Silk Warehouseman & Agent, 19, Gutter-lane, London. Nov. 30, at 11.30; Basinghall-street.—DICKINS, WILLIAM, Shoe Manufacturer, Daventry, Northamptonshire. Nov. 21, at 12.30; Basinghall-street.—HARRISON, THOMAS, Tailor and Draper, Henley-upon-Thames, Oxfordshire. Dec. 1, at 12; Basinghall-st.—M'ALPINE, JOHN, jun., Bleacher, Newington-road, Ball's Pond, Middlesex. Nov. 30, at 12; Basinghall-street.—M'ALPINE, JOHN, Ironmonger, 110, High-street, Cheltenham. Dec. 13, at 11; Bristol.—NICHOLSON, JOHN, Currier & Leather Dealer, Liverpool. Dec. 3, at 11; Liverpool,—OVERBURY, JOHN, Woollen Warehouseman, Frederick's-place, Old Jewry, London. Nov. 30, at 1; Basinghall-street.—PARROT, WILLIAM, Boot & Shoe Maker, 16, Lisle street, Leicester-square, Middlesex. Dec. 1, at 12; Basinghall-street.—PORTER, THOMAS, Chair and Cabinet Maker and Upholsterer, 8, Beauvoir-place, Kingsland-road, Middlesex. Dec. 4, at 12; Basinghall-street.—REEVES, GEORGE, jun., Riding Master, Livery Stable Keeper, & Horse Dealer, Cheltenham, Gloucestershire. Dec. 6, at 11; Bristol.—ROACH, CHARLES, Hosier, Devizes, Wilts. Dec. 13, at 11; Bristol.—SIMPSON, DAVID, Goldsmith & Jeweller, 29, Hatton-garden, Middlesex. Dec. 1, at 1; Basinghall-street.—TOWNSON, WILLIAM, M., Victualler, Liverpool. Nov. 30, at 11; Liverpool.—WILSON, JOHN, Boot & Shoe Maker, Sunderland. Nov. 22, at 11; Newcastle-upon-Tyne.

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THE SOLICITORS' JOURNAL.

LONDON, NOVEMBER 17, 1860.

CURRENT TOPICS.

Notice has been given in the advertising columns of the morning journals that application is intended to be made to Parliament in the session of 1861, for an Act to authorise and enable the Commissioners of her Majesty's Works and Public Buildings to acquire, by compulsory purchase or otherwise, certain houses, tenements, and other buildings in the Liberty of the Rolls, as a site for the proposed Palace of Justice. The boundaries of the site are stated as follows:—on the north and north-west by Carey-street; on the south by Pickett-street Strand, the Strand, and Fleet-street; on the east by Bell-yard; and on the west and south-west by Yeates's-court, Clement's-inn, and the Vestry-house of the parish of St. Clement Danes. There is no doubt that not only the law authorities but Lord Palmerston himself, and other members of the Cabinet, are very desirous to give full effect to the vigorous scheme suggested in the report of the Concentration of Courts Commissioners. During the long vacation the Prime Minister, accompanied by the Attorney-General and Solicitor-General, visited the proposed site with the view of making himself personally acquainted with the details of the plan, and the locality of the intended buildings; and we believe that he is prepared to recommend Parliament to resort to the suitors' fee fund—according to the suggestions of the majority of the commissioners—for the sum necessary to carry out this great undertaking.

The Bill "for repealing divers Acts and parts of Acts which have ceased to be in force," has recently been printed. It consists of two short clauses—one repealing the Acts mentioned in the schedule to the extent therein specified; and the other declaring that the Act "shall not be deemed to affect anything already done under any enactment herein comprised, or to affect any right, benefit, obligation, or liability now existing, or capable of hereafter arising, or being employed or enforced under any such enactment; nor shall any such enactment, by reason of its being herein comprised, be deemed to have been in force at the time of the passing of this Act, or at any time heretofore, further or otherwise than it would have been so deemed if this Act had not been passed." The Bill is the first step towards that expurgated edition of the statutes which, under the direction of the Lord Chancellor, the Attorney and Solicitor Generals, has been entrusted to Mr. Reilly and Mr. Wood. The schedule shows first the Acts proposed to be repealed; secondly, the subject; thirdly, the extent of repeal; fourthly, the mode in which the particular enactments have ceased to be in force; and, lastly, the public office to which the Act belongs. This schedule, which includes the statutes relating to departmental administration from the 19 & 20 Vict. to the 11 Geo. 3, has been submitted to the officers of the Customs, Treasury, &c., and having been subjected to a rigorous examination, it is understood that the labours of the learned editors have been ascertained to be singularly accurate and correct. It therefore is to be hoped that the many Acts mentioned in the schedule will speedily be swept away from the overcrowded pages of our Statute Book.

A movement has been set on foot by Lord Brougham for getting up a public dinner, to be given by the English bar in honour of M. Berryer, the great French advocate. We understand that already several of the most eminent members of the profession in this country have signified their approval of the proposition, and that Sir Fitzroy Kelly assists Lord Brougham in making the preparatory arrangements.

The *Morning Post* of yesterday states that the letter of the Attorney-General (which appears elsewhere in our columns), read by Mr. Morley in his speech at Manchester, was a private communication, and that the use made of it by Mr. Morley was without the consent or knowledge of the Attorney-General.

THE *BORGHESE* CASE.

This case has been one of the longest, and also one of the most interesting, ever discussed in the Court of Chancery. It occupied fully a fortnight in argument. The examination of Italian lawyers at Rome extended over three months, and their opinions and oral evidence were printed for the information of the Court in the same number of folio volumes. A very high degree of learning and ability were displayed both by the English and Italian advocates, who at such great length discussed the case; and the judgment delivered by Vice-Chancellor Wood on Tuesday last was in every way worthy of the occasion, and of the reputation of that distinguished judge. It is remarkable that when the claimants first gave notice of their alleged rights, Mr. Rolt was consulted as to the validity of the claim, and advised against it. Subsequently, Mr. Rolt became the plaintiff's leading counsel, and argued, with all his accustomed force, against the opinion he had himself expressed. We believe that few English lawyers, looking at the question by the light of English law, and with English habits of thought, would fail to form the same first opinion as Mr. Rolt did. And after hearing all the ingenious reasonings of the Italian lawyers, and endeavouring to consider the question from the point of view assumed by them, it is probable that an English mind would rest finally in the opinion which it had formed at first. The judgment of the Vice-Chancellor was in accordance with what we venture to call the primary and obvious view of the case before him. It was admitted that the document in controversy must be expounded by Italian lawyers, according to the rules of Italian law; but after considering a great variety of subtle arguments, the Vice-Chancellor put them one by one aside, and decided the case by the application to it of plain reasoning and of broad principles which belong equally to all legal systems. It would not be unfair to describe the decision, in this case, as a triumph of common sense over technicality.

The suit was founded upon a contract dated 7th March, 1835, preliminary to the marriage of Lady Gwendaline Talbot with a prince of the noble Roman family of Borghese. This contract was signed by Lord Shrewsbury and Prince Borghese, the fathers of the parties to the intended marriage. On the 9th May, 1835, a solemn public instrument was executed before a notary, and there was also a private instrument of even date. The marriage was solemnized two days after the execution of these instruments. Lord Shrewsbury had one other daughter and no son. The Princess Borghese died before her father, and left her husband and one daughter surviving her. That daughter married the Duc di Sora, a Roman noble, and upon her marriage her rights, and those of her father, under her mother's settlement, became vested in her father and herself in equal moieties. Thus the claimants in the suit were the Princess Agnese Borghese, wife of the Duc di Sora,

and her father; and the principal defendants were the trustees to whom Lord Shrewsbury gave the bulk of the real and personal estate, over which he had a disposing power, upon certain trusts under which his two daughters and their families took no benefit. The present claim rested upon the 5th clause of the preliminary contract above-mentioned. That contract, and also the two solemn instruments of later date, were in the Italian language, and were executed at Rome, where Lord Shrewsbury resided with his family. The translation of the 5th clause adopted by the Court, was as follows:—

Over and above the aforesaid dowry thus constituted his Excellency the Earl of Shrewsbury assigns from this moment likewise by title of dowry to the lady bride a portion equal to the other heirs in concourse in his free inheritance cleared from debts and legacies.

By a previous clause Lord Shrewsbury had agreed to pay or secure to his daughter a dowry of £40,000. In addition to that sum, the claimants now demanded half of Lord Shrewsbury's real and personal estate, without deduction for debts or legacies. They claimed "a portion equal to the other heirs in concourse in his free inheritance," that is, in his unentailed property; and as the only other heir was Lord Shrewsbury's surviving daughter; the "portion" claimed by them was, as regards quantity, one half. As regards quality, they alleged that this portion was to be "free," or "cleared" from debts and legacies, which in that case would be thrown upon the other half of the inheritance. It will be seen that by this construction the participle "cleared" was made to depend upon the more remote substantive "portion," instead of upon the nearer one "inheritance." It was contended on the other side that the "inheritance" was to be "cleared" of debts and legacies by paying them out of it, and then the claimants would take a moiety of the residue; and as Lord Shrewsbury had given away his whole estate, there was no residue, and therefore the claimants could take nothing. This was, in effect, contending that the participle "cleared" belonged to the nearer substantive "inheritance." Upon this question of construction, which was the principal question in the cause, the Vice-Chancellor decided against the plaintiff. He held that Lord Shrewsbury had retained full disposing power over his entire property; and as he had disposed of the whole of it, there remained nothing upon which the clause could operate, and therefore he dismissed the bill.

We think the plaintiff relied upon a forced and the defendants upon the plain construction of this clause. But upon a number of subsidiary and artificial arguments of the defendants, the Vice-Chancellor chiefly rested upon the testimony of their own witnesses to decide against them. Thus it was alleged that the fifth clause constituted a *pactum successorium*, or agreement concerning the succession of a living man, which is forbidden by the Roman law on the very unsatisfactory ground that it is *contra bonos mores*, as causing the heir to desire the death of the person who created him. Modern Roman lawyers appear to feel the absurdity of this rule, whose existence they nevertheless admit, and they endeavour to limit its operation by numerous and refined distinctions. Thus in the present case the plaintiff's witnesses contended that the clause in question did not give a right to a quota of succession, but only to a quota of property. One of the defendants' witnesses called this distinction "the algebra and metaphysics of jurisprudence, and an invention of lawyers for the purpose of eluding the law." Nevertheless, the distinction seems established—at least if it be possible in any particular case to draw it. The whole or a portion of an inheritance, as inheritance, cannot be taken by a compact *inter vivos*; but the word *eredita* may possibly appear from the context to mean only property—it may stand for *bona mobilia et immobilia*, just as those words may, under certain circumstances, be equivalent to the *universum jus*. All this, it must be owned, is a very pretty exercise of ingenuity, but it would be highly unsatisfactory to see the judgment of an English court rested upon such a slender ground. As the Vice-Chancellor remarked, the Italian cases on this head run very fine. He founded his own decision against the defendants' allegation of *pactum successorium* upon the doctrine derived from their own witnesses, that such a pact must depend for its effect upon the heir surviving the person who created him; whereas here the assignment was to take effect immediately, and besides, it was made "by title of dower," or, as we should say, for the valuable consideration of marriage, and therefore the daughter would not take as heir, but as a creditor against the heir.

Upon this point, then, the defendants failed, and they were equally unsuccessful with the arguments which they founded upon a clause of the solemn public instrument, called from its two first words the *viene conservato* clause, and of which the translation was as follows:—

The right of jointly succeeding to the inheritance of her father, according to the common law, is by express provision reserved to the said future bride.

It will be seen that this clause was much less favorable to the plaintiff's claim than that contained in the preliminary contract. Indeed it left Lord Shrewsbury quite at liberty to burden his succession with debts and legacies, or to give away the whole of it, as he did, to strangers. The defendants struggled hard to show that this clause must be taken in substitution for what we shall call for the sake of brevity the fifth clause. Here was an informal contract, and a subsequent solemn instrument. Was it not reasonable to suppose that the parties, on deliberation and under advice, had embodied the whole of their mature intentions in the instrument of later date? But one objection to this view was that Lady Gwendaline, a minor, had acquired a present right under the fifth clause, and the proper formalities had not been observed to make her renunciation of that right valid. And, moreover, it was clear upon Italian law that the mere execution of the formal instrument would not abrogate the preliminary contract. There could be no revocation except by incompatibility, and here the two clauses might well stand together. There were also authorities to show that even if the two clauses were inconsistent, the former and not the latter must prevail

Whatever may be the practical effect of the Roman law upon the condition of the people subject to it, one cannot but feel strongly impressed by the majestic antiquity of a system which seeks the origin of its principles in the remote ages of the free republic which preceded the empire of the Cæsars. We have spoken before of the illegality of a *pactum successorium*, and of the artificial reasons given for that rule of law. But in his "Opinion for the truth," produced in support of the plaintiff's case, the advocate Rossi showed that this rule was founded on the early practice, according to which an heir could only be created by a *lex* passed by the Roman people in their *comitia*. Inheritances were, by the law itself, transferred to the nearest relations of the deceased, and the ancient Romans held that it was lawful for no man to derogate by his own will from such a prescription of the law, and to institute to himself a different heir. When therefore any one wished to do so, he must get a law passed for the express purpose. Upon this ground compacts concerning succession were held to be unlawful and void. Our own reverence for tradition will fit us to appreciate a legal system so much more ancient than our own; and we find that the grandeur of the Roman law is well supported by its practitioners at least in their deliberate compositions. Under the pressure of an English cross-examination, it must be owned that they rather compromised their dignity. But in their written opinions and in their deeds they maintain a sufficiently elevated style. "The aggregate of all virtues which can illustrate a noble young lady," induced a certain Prince to request that

she might be given in marriage to his first-born son, "a young man equally adorned with the highest qualities." This is the recital of the settlement made "with the Divine will," and "under the Pontificate of our Lord Pope Pius IX. happily reigning," on the marriage of the Princess Agnese Borghese with the Duc di Sora. If space permitted, we could collect many other interesting examples of a style of thought and of expression which contrast most vividly with those of English lawyers.

THE TRUSTEES AND MORTGAGEES ACT (23 & 24 Vict. c. 145).

This Act has been discussed under a variety of aspects. At one time the soundness of the principle of making powers and provisions incident to estates has been questioned, on the ground that a mortgage in its equitable bearing is a matter of special contract between the parties, while the similarity of any number of private transactions does not invest them with such a character as to bring them within the scope of public legislation. At another time the statutory development of deeds has been objected to, as interfering with the liberty of persons who may make dispositions in ignorance of an officious law. Again, the perplexity of construing the clauses of an instrument together with the clauses of an Act of Parliament has been balanced against any advantage of the brevity of form resulting from the operation of the Act. The general inconvenience too of a mortgagee being obliged to look into the statute book, consolidated or unconsolidated, for what he is allowed to do, and what not to do under his security, tends, it is argued, to complicate business, and so to counteract any convenience of an imperfect, however simple, document in the mortgagee's hands. But grant the principle of making powers incident to estates, admit that there is no undue interference with conveyancing liberty, tolerate the perplexity, and decide in favour of the convenience, yet, there remains the paramount consideration — has the legislative measure been put into a shape suitable for the accomplishment of the object which it professedly has in view? Has Parliament, in its office of draftsman, adequately provided for the circumstances of the matter? Is the shortness of the six clauses—the 11th to the 16th—which regulate sales by mortgagees of real property in their wide diversity, due to a breadth and comprehensiveness, which adapt themselves to the manifold requirements of business; or is this shortness a meagreness owing to narrow views, which cannot contemplate anything beyond the plainest case of mortgage? Is it grasp of subject or ignorance of detail that really characterises this Act?

There is an imposing generality in the preamble:—"It is expedient that certain powers and provisions which it is now usual to insert in mortgages, &c., should be made incident to the estates of the persons interested so as to dispense with the necessity of inserting the same in terms in every such instrument." This is doubtless the magic statutory formula. Parliament need only declare that this or that thing is "expedient," and unfold a dozen or half-dozen clauses, and it is assumed that the thing is done. Since the passing of this Act, the practical question asked hitherto has been, shall we or shall we not exclude its operation from our deeds? If we do not, then according to the prevailing impression, the statutory provisions will fasten themselves inextricably among the common forms of the instrument with such variations and limitations as in the opinion of each cunning interpreter the forms may work in the provisions when applied to the particular case. The acceptance or rejection of the parliamentary conveyancing boon is regarded as optional. The self-imposed limits of its operation have not been at once perceived. We are not now referring to patent restrictions, as that (s. 11) the purview of this part of the Act is confined to principal money secured or charged by deed on hereditaments of any tenure, and (s. 24) to money advanced or to be advanced by way of loan, or an existing or future debt, and further (s. 32) that the Act does not empower persons to affect the rights of any one, further than they might have affected such rights, if the instrument had contained express powers for such persons to affect such rights.

The self-imposed limits to the application of the mortgage clauses arise mainly out of the 15th section. "The person exercising the power of sale hereby conferred shall have power by deed to convey, or assign to, and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of, except that in the case of copyhold hereditaments the beneficial interest only shall be conveyed to and vested in the purchaser by such deed."

"Had" seems to be a kind of aorist—a tense which has its legitimate uses, but which was not previously naturalised in an Act of Parliament. Let us try back for the meaning of this aorist. Various periods are mentioned in the preceding clauses. There is the period of making the security, the period when the principal shall have become payable, the period of one year after that period, or of six months' arrear of interest, or of failure to pay an insurance premium, the period of sale, and the period of six months' notice before exercising the power of sale. We will suppose, on the principle of *qui prior est tempore*, &c., that the first of these periods is meant. Then, it is plain that the Act cannot be intended to apply to any case of a mortgage of less than the mortgagor's whole estate and interest, and the whole estate and interest of which he had power to dispose. Otherwise, it would be absurd that the mortgagee should have power to convey for all such estate and interest. Hence, not only are securities made by limited derivate interests out of the mortgagor's estate excluded, but those created under powers; as by a tenant for life, to raise portions or to pay debts, or by trustees for the exoneration of estates, or other usual purposes. No mortgage made under a mere power to dispose in mortgage can be within the 15th section, or consequently within the Act.

Of a similarly restrictive character is the 14th section, enacting that, upon a sale, the residue of the purchase-money shall be paid to the person entitled to the property subject to the charge—a provision wholly unsuitable to any case of divided ownership in the equity of redemption, whether by settlement or otherwise.

Even in the case of a mortgage, which is within the Act, the application of the 15th section suggests a serious inquiry. Hitherto a conveyance on a sale by a mortgagee has operated to pass his estate at law, freed from all right of redemption in equity. But a conveyance made under the Act is to convey for the estate and interest of the mortgagor. Is the purchaser, therefore, to take as for the estate and interest which the mortgagor had at the time of the mortgage, and not for the estate and interest which the mortgagee has at the time of the conveyance? Thus, suppose the case of a mortgagee who, taking without notice of judgments against the mortgagor, has escaped the effects of the 1 & 2 Vict. c. 110; a purchaser from such a mortgagee in the ordinary way would not be affected by such judgments, although the purchaser had notice of them. Will he be affected by them, if under this Act, he takes for such estate and interest as the mortgagor had at the time of the mortgage? The test supplied by the Act itself is, that the rights of other persons (judgment creditors, for instance) shall be affected only to the extent to which they might be affected if the powers had been given in the instrument. We must, therefore, construe the effect of the statutory conveyance in the same manner as we should

that of the ordinary conveyance by a mortgagee, if the mortgage had given him power in a sale to vest the property in a purchaser for all the estate and interest therein, which the mortgagor at the date of the mortgage had power to dispose of. What would be the operation of such a power given in a mortgage? Would it throw a purchaser from the mortgagee back upon the mortgagor's title at the time of the mortgage? Can any one safely affirm that it would not? This extraordinary 15th clause has gone so far out of its way, and introduced such a novel treatment of the relations between the mortgagor, mortgagee, and purchaser, in the vital point of the conveyance, that it holds out to a cautious practitioner something like a *noli me tangere*.

There are other points in the mortgage clauses that are noticeable, as rendering necessary great caution, if not raising great doubt. The Act purports to dispense with the necessity of inserting the usual powers and provisions in terms in every mortgage. It might thus be mistaken for a kind of Mortgage Clauses Consolidation Act, and the mortgagee be regarded as occupying under the Act the same position as if the common-form powers and provisions had been actually inserted in the deed; but this is a theory which must not be trusted before examination of it with the clauses. Turning to the 13th, a sale is not to be made until after notice; "but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorise the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorised exercise of such power shall have his remedy in damages against the person selling." The corresponding proviso in the common form of a power of sale is to the effect, that upon any sale purporting to be made in pursuance of the power, the purchaser shall not be bound to see or inquire whether notice has been given or default made, or as to the expediency of the conditions of sale or otherwise as to the propriety or regularity of the sale, and that notwithstanding any irregularity or impropriety, the sale shall be valid as regards the purchaser. These powers of the Act and of the common form differ in two important particulars. The common form contemplates irregularity or impropriety by the vendor, and relieves the purchaser from being bound to see or inquire respecting any and from the consequences of not seeing or inquiring. The Act is more general, and would save the purchaser's title, although both he and the mortgagee were aware that no case had arisen to authorise a sale, or that no notice had been given. Again, while the 13th section is chargeable with this undue licence, it does not give sufficient licence respecting the grounds of irregularity, confining them as it does to the circumstances of no case arising for sale, and of want of notice. Consequently, the object of the common form, that no irregularity or impropriety as between the mortgagee and mortgagor shall vitiate the sale as respects the purchaser, is not secured by the statutory power.

In applying the 13th section practitioners have also to consider, what is the precise force of the words "in professed exercise of the powers hereby conferred." Thus, if a mortgagee put up the property to sale by auction in the ordinary way, as a sale by a mortgagee, and the usual contract were entered into at the foot of the particulars, it is apprehended that the mortgagee could not afterwards, in carrying out the contract, insist upon the benefit of the indemnity afforded by the Act to the purchaser's title. The sale must at the outset, in the particulars of sale, profess to be made in pursuance of the Act. The same remark applies to a sale by private contract. As regards a subsequent purchaser, however, it will have been sufficient to notice the Act in the conveyance from the mortgagee. The necessity of making the sale from the first professedly under the Act is peculiarly apparent in the case of a subsale by the purchaser.

Some curious cross purposes in practice will result from the provisions of the 11th section, conferring the power of sale, taken in connection with the 12th, providing a discharge to purchasers. By the former section, the person to whom the money "shall for the time being be secured, his executors, administrators, and assigns," shall have power to sell. By the latter section receipts for purchase-money given by the "person or persons exercising the power of sale," shall discharge purchasers. So that if a mortgagee die, and his executor, who is the person to whom the money will for the time being be payable, commences a statutory sale and dies intestate, his "administrator" will be the statutory party to continue the exercise of the power, and therefore to give receipts to purchasers; while the mortgagee's executor will now be the person entitled to the money.

Some experienced conveyancers are, we know, declining the Act. It is scarcely necessary to remind any of our readers that, unless expressly excluded, it takes effect upon a deed. We feel bound, therefore, not to close these remarks without a form of proviso that will be useful for the avoidance of doubts and difficulties, until an amendment or substituted measure shall have been passed, or until judicial decision, obtained by and at the cost of those who may offer themselves as patriotic scapegoats for legislative sins, shall have come in aid to resettle the Act. The proviso is framed on the language of the 32nd section:—

"Provided always, and it is hereby declared, that none of the powers or incidents by the Act to give to trustees, mortgagees, and others, certain powers now commonly inserted in settlements, mortgages, and wills, conferred or annexed to particular offices, estates, or circumstances, shall take effect, or be exercisable in, or in respect of any offices, estates, circumstances, matters, or things created by, or arising under, these presents."

The Courts, Appointments, Promotions, Vacancies, &c.

VICE-CHANCELLORS' COURT.

(Before Vice-Chancellor Sir W. P. Wood.)

Nov. 12.—*Waller* v. *Holmes*.—This was a petition of the defendant for the delivery by a London firm of solicitors to the petitioner of all deeds and documents, &c., in their custody belonging to him.

The petitioner had employed Mr. Sims, a country solicitor, to act for him in the suit. An order was made in December, 1855, for production by the defendant of all documents, &c., relating to the matters in question in the suit, at the office of Messrs. Mead & Daubeny, the London agents of Sims. Sims died in 1859, and, after setting off the amount of his bills of costs in *Waller* v. *Holmes*, his estate still remained largely indebted to the petitioner for moneys advanced. Sims also died indebted to his London agents, Mead & Daubeny, to the amount of £600. The proportion of their claim which had arisen in *Waller* v. *Holmes* amounted to £142, and until satisfaction of their lien for this sum they refused to deliver up to the petitioner his deeds.

The Vice-Chancellor held that the deeds must be delivered up to the petitioner. The country solicitor could confer no higher right upon his London agent than he possessed himself. The London agent was always taken as giving credit to the country solicitor, and not to the client himself, of whom he knew nothing. In the present case there was nothing due from the client to the country solicitor, and the result was that there was no such right of lien in the London agents as had been contended for by them. The deeds were ordered to be delivered up, and the respondents to pay the costs of the petitioner.

COURT OF QUEEN'S BENCH,

(Sittings in Banco before Lord Chief Justice COCKBURN, and Justices WIGHTMAN, HILL, and BLACKBURN.)

Nov. 7.—Fox v. *Williams.*—This was an application for a rule calling upon the plaintiff to show cause why the verdict found in his favour, with £200 damages, should not be set aside, and a new trial granted, upon the ground of misdirection and that the damages were excessive. It appeared the plaintiff, Charles Burton Fox, was a solicitor, carrying on business at Newport, in Monmouthshire, in partnership with a Mr. Prothero. The defendant was the printer and publisher of the *Star of Gwent*, a newspaper circulating in the same county, and the action was brought against him to recover damages for two libels published by him in the *Star of Gwent* on the 18th of February, 1860. At the trial, which took place at Hereford, at the last assizes, before Mr. Justice Byles and a special jury, the plaintiff obtained a verdict with £200 damages. It appeared that the plaintiff was clerk to the Newport justices, and his partner, Mr. Prothero, was clerk of the peace of the county. The 102nd sect. of the Municipal Corporations Act (the 5 & 6 Will. 4, c. 76) enacted that the clerk to the justices should not be interested, directly or indirectly, in the prosecution of offenders committed by the borough justices; and as the plaintiff was in partnership with Mr. Prothero, and so shared in the fees which that gentleman received as clerk of the peace on the trial of prisoners committed by the Newport justices, it was objected to the plaintiff that he had an indirect interest in advising the Newport justices to commit offenders for trial. This led to various legal proceedings, which ended in a decision of a court of error that the plaintiff had acted illegally, and a nominal fine of one shilling was imposed upon him. The plaintiff and his partner then, under the advice of counsel, executed a deed, under which it was arranged that in future each party should receive his own fees to his own use, and that they should no longer share in each other's fees. This deed had been denounced in terms which it was admitted could not be justified, and which cast an imputation on the honour of the plaintiff; but it was contended that, notwithstanding the deed, the plaintiff was still interested, by his partner, in the prosecution of offenders committed by the borough justices, and it was submitted that, at all events, the damages were excessive.

Lord Chief Justice COCKBURN said the Court would communicate with Mr. Justice Byles on the subject; and, at a later period of the day, his lordship said the Court had ascertained that Mr. Justice Byles was not dissatisfied with the amount of damages. It was admitted that the libel went beyond fair comment, and described the arrangement in question as merely colourable. It made a charge on the personal honour of the plaintiff, and, therefore, it was competent for the jury to give the plaintiff substantial damages. The learned judge was not dissatisfied with the amount of the damages, and, therefore, he (Lord Chief Justice Cockburn) thought the verdict ought not to be disturbed. With respect to the other point, his lordship thought there had been no misdirection. The plaintiff had now no interest, at least no pecuniary interest, in the prosecutions; his only interest was that which a man might take in advancing the interest of his friend. But that was not the sort of interest which the Act contemplated. It might be that the arrangement was open to some observations, but not to the comments which had been made upon it.

The other judges were of the same opinion.

Rule refused.

(Sittings in Banco, before Lord Chief Justice COCKBURN and Justices WIGHTMAN, HILL, and BLACKBURN.)

Nov. 8.—Ex parte the Mayor of Birmingham.—The Solicitor-General moved, on the part of the Mayor of Birmingham, for a rule calling upon the justices of the borough to show cause why a *mandamus* should not issue, commanding them to allow the mayor to take precedence and to preside as chairman at all meetings of the justices where a chairman should be required. The application was made on the part of Thomas Lloyd, the mayor for the year 1859-60, and was founded on the 57th section of the Municipal Corporations Act (the 5th & 6th Will. 4, c. 76), which enacted that the mayor for the time being of every borough shall be a justice of the peace for such borough, and continue so for one year after he shall cease to be mayor; and that "such mayor shall (during the time of his mayoralty) have precedence in all places within the borough." The magistrates had put a construction upon the statute that it did not apply to meetings of magistrates, but was only intended to give the mayor social precedence in the borough; but the Solicitor-General contended that that was not the true construction, but it was intended that the mayor, being a justice *virtute officii*, should preside at all meetings of the justices where a chairman should be required.

Lord Chief Justice COCKBURN said he thought the right construction had been put on the statute, and that it referred only to social precedence, and did not give the mayor a right to preside at magistrates' meetings.

Rule refused.

Nov. 12.—In re ——, an Attorney.—This was an application for a rule calling upon an attorney to show cause why he should not answer the matters of an affidavit and pay over to the applicant a sum of money. It appeared that a few years since the applicant left England for the Cape of Good Hope, and gave the attorney a power of attorney to conduct his business for him in his absence. A sum of £600 was owing to the applicant, and the attorney was advised to get it in and invest it on mortgage. The money was accordingly got in, and the attorney stated he had invested it. The applicant afterwards sent the attorney £150 to be invested, and on his return to England in 1859, required an account of the investments; but not being able to obtain any account, demanded payment of the money. The money not having been paid, the matter was placed in the hands of the applicant's present attorney, whereupon the former attorney rendered an account in which he had debited himself with a loan of £600 at £2 per Cent., but which he had afterwards raised to £5 per Cent; but this was done without any communication with the applicant. The Court granted a rule.

COURT OF COMMON PLEAS.

Nov. 12-13.—Lewis v. *The Mayor and Corporation of Rochester.*—This was an action by the plaintiff, formerly town-clerk of Rochester, against the corporation, on their retainer to him to oppose an application for a *mandamus* directed to the Mayor of Rochester, to compel him to revise the list of burgesses for three of the six parishes into which Rochester is divided, which had not been revised owing to a list of the burgesses in those parishes by mistake not having been published according to the requirements of the Municipal Corporation Act; and the question raised by the case was, whether the plaintiff could maintain his action on this retainer under the common seal of the corporation for his bills of costs.

The Court gave judgment for the plaintiff.

DIVORCE COURT.

(Before Sir C. CRESSWELL.)

Nov. 9, 10.—Shedden v. *Shedden.*—The proceedings in this Court on Friday and Saturday, the 9th and 10th instant, were of unusual interest, from the fact that a lady, whose counsel had withdrawn from the case in consequence of not having had time to master its very numerous and complicated details, came forward herself, and addressed the Court in a speech that would have done credit to a practised barrister. At the sitting of the Court, on Friday, Mr. Macaulay, Q.C., applied for an adjournment, on the ground that neither he nor Sir Hugh Cairns (who was with him) had been enabled to give that attention to the papers which the complicated and very peculiar nature of the case required. Sir C. Cresswell, however, stated that before the long vacation he had given notice that this case would be the first that would be taken this term. Great public inconvenience would arise if it were postponed. It must therefore go on. Mr. Macaulay regretted to say that, under the circumstances, it must go on without the aid of himself and his learned friends. He and his colleagues then withdrew. Miss Shedden accordingly stood forward, and in a very lengthened, but exceedingly lucid, and even eloquent speech, stated the case in support of the petition. She felt that some prejudice might arise against her for having thus come forward; and an apprehension might be entertained lest, in an age when so much was said of woman's rights, other ladies might be induced by her example to plead their causes in person. She continued to address the Court until it rose. On Saturday, when the case was resumed, Miss Shedden stated that Sir H. Cairns and Mr. Macaulay would be ready to proceed with

the argument in her behalf on Thursday; and asked for an adjournment till then. The Court declined to accede to the application. The Attorney-General (who had been cited to watch the proceedings) was ready to assent to the application. Sir C. Cresswell had no objection to postpone the legal argument, provided that the rest of the case were proceeded with, so that no time might be lost. After some further discussion, Miss Shedden stated she was unable at once to proceed with her case. At that moment she felt as if she could hardly speak—not that she felt physically weak, but she feared that if she attempted to go on, her brain would hardly stand it. Mr. Macaulay was then confined to his room, and Sir H. Cairns (whose kindness and the kindness of whose family she could never forget) had an engagement in the Vice-Chancellor Wood's Court, and could not be present. Sir Hugh had told her that he should never think without pain and distress on the state in which he had been obliged to leave the case. (Here Miss Shedden, who is a person of very ladylike demeanour, exhibited some emotion, her voice faltered, and she abruptly concluded). She spoke on Saturday for nearly five hours.

COURT OF ALDERMEN.

The late Alderman Wire.—At a Court held on the 13th inst., at which the Lord Mayor presided, Mr. Alderman Copeland said it had pleased God to deprive them of one of their number, the late Mr Wire, who for a long period of years was known to the corporation of London, and who as a magistrate discharged the duties of his office with great zeal and fidelity. He felt sure that the Court would pay that tribute of respect to his memory, and offer that condolence and sympathy to his widow and family, which were due at their hands. As a corporator, as under-sheriff, as sheriff, and as Lord Mayor of the city, he had known Mr. Wire, and certainly he deserved credit at the hands of the Court for the manner in which he invariably discharged his duties. He moved a resolution expressive of regret on the part of the Court at the death of their esteemed and estimable colleague, and of their appreciation of his public services, and directing that a vote of condolence be prepared and presented to his widow and family. Sir P. Laurie, in seconding the motion, said he had great respect for Mr. Alderman Wire, for he always thought him a most honourable man. The motion was carried unanimously.

COURT OF COMMON COUNCIL.

At a court holden on the 15th inst., Dr. Abraham moved that it be referred to the Law, Parliamentary, and City Courts Committee to consider the expediency and propriety, and also the terms, of including the City Commission of Sewers in the arrangements provided for performing the legal business of the corporation, in order to relieve the ratepayers of the city from the expense of employing separate Parliamentary and other law officers to perform the legal business of the commission, and to report thereon forthwith to the Court. He submitted that, as the Commissioners of Sewers were appointed by that Court, and almost all of them were members of the Council, the Commission was to a certain extent a branch of the corporation. The Commission expended about £15,000 a year in public works and improvements, scarcely one of which could be carried out without the intervention of a lawyer. Its average annual law expenses during the last five years had amounted to £780, and its Parliamentary expenses to £718. He thought an arrangement might be made that would add little to the present expenses of the corporation, and might materially lessen those of the Commission.

The motion was agreed to.

CLERKENWELL POLICE COURT.

Nov. 12.—Henry Augustus Meech, formerly clerk to Messrs Gregory & Co., Solicitors, Bedford-row, was charged with stealing the sum of £140, the property of that firm. It appeared that in July, 1859, Mr. Gregory gave the prisoner a cheque for £120 to pay for probate duty. Shortly afterwards Meech absconded, without having appropriated the money to the purpose for which it was intended. Nothing further was seen of him till the 9th instant, when he was observed by Mr. Fraser, a clerk in the prosecutors' employ, and was given into custody. It also appeared that when the prisoner absconded, he took with him a cash book in which he entered the fees paid to counsel, and that several sums he had received for that purpose had not been paid by him, and the prosecutors had to draw cheques a second time to pay those fees. The prisoner was committed for trial, but bail was taken for his appearance, himself in £400, and two sureties in £200 each.

SOUTHWARK POLICE COURT.

Nov. 10.—One of the toll-collectors at Waterloo-bridge was summoned by Mr. Frederick Payne Puckle, a member of the London Scottish Volunteers, for unlawfully demanding and taking the toll while he was going to the place appointed for drill, dressed in his uniform, according to the regulations, &c.,

It appeared that the head-quarters of the corps were at Adelphi-terrace, and that they drilled at Westminster-hall. Mr. Puckle resided at Camberwell, and on Saturday afternoon, the 3rd instant, left home for the purpose of going to drill. He was dressed in his usual uniform, and as he was about to pass through the toll-gate at Waterloo-bridge, the defendant demanded the toll. He claimed exemption, as he was on duty, but the defendant insisted upon being paid, consequently he handed him the money, under protest.

The complainant was at the time without his arms or accoutrements, the regulations of the corps being that the members of the corps should go to head-quarters to fetch their arms and accoutrements for drill, and leave them there after drill. It was contended on the part of the bridge company, that as Mr. Puckle was in simple uniform, he could not claim exemption. The magistrate, however, thought a sufficient reason had been given for the complainant being without his side-arms, and gave judgment accordingly, but did not inflict a penalty, merely ordering the defendant to pay costs.

The following solicitors were elected mayors of the undermentioned municipal boroughs on the 9th instant:—

Mr. Thomas Crawhall Alcock.....	Sunderland.
„ Edmond Foster	Cambridge.
„ Charles Bettesworth Hellard...	Portsmouth.
„ Henry Ingledew.....	Newcastle-on-Tyne.
„ Lewis Whincop Jarvis	Lynn.
„ Samuel George Johnson	Faversham.
„ George Leeman	York.
„ Gillett Jonathan Ottaway.....	Salisbury.
„ Cadwallader Edmonds Palmer	Barnstaple.
„ John Pearson	Doncaster.
„ Arthur Ryland	Birmingham.
„ Joseph Shipton	Chesterfield.
„ Charles Woolridge.....	Winchester.

Mr. Merivale, the Under Secretary of State for India, has appointed Mr. Charles Chicheley Plowden to be his private secretary in the place of Mr. Hobhouse, who has been promoted.

The Hon. Society of Gray's-inn have appointed the Rev. W. Henry Hart, M.A., Demy of Magdalen College, Oxford, and officiating Curate of St. Luke's, Chelsea, Reader and Afternoon Preacher of the Society.

Recent Decisions.

[*Equity*, by JAMES NAPIER HIGGINS, Esq., *Barrister-at-Law*; *Common Law*, by JAMES STEPHEN, Esq., LL.D., *Barrister-at-Law*.]

EQUITY.

PRACTICE—ENFORCING COMPROMISE BY PETITION.

Dawson v. *Newsome*, 8 W. R., V.C.S., 725.

Since the Chancery Amendment Act of 1852, the tendency of the practice of courts of equity is towards the substitution of petitions and summary applications for the more formal procedure of regular suits; and this case is useful as shewing that the Court will not be averse to decide upon petition such an agreement for the compromise of a suit as before the Act of 1852 would have required the institution of a suit by bill. In *Richardson* v. *Eyton*, 2 De G. M. & G., 79, the Lords Justices considered that they could not give effect to an agreement for the compromise of a suit by a petition in that suit, and that a new suit, one in fact for the specific performance of the agreement, was rightly instituted. Sir John Leach, also

in *Forsyth* v. *Manton*, 5 Madd. 78, was of opinion that the Court had no jurisdiction to enforce an agreement which was no part of the suit, but had been privately come to by the parties out of Court. The principal case, previous to the Act of 1852, upon this point of practice is *Askew* v. *Millington*, 9 Hare 65, in which Turner, V.C., upon a petition to enforce an agreement entered into by the parties to the cause after it was at issue, for the compromise of the suit, refused to dismiss the bill or to stay proceedings. The ground of this decision also was that the petition sought in fact the specific performance of an agreement—which according to the practice of the Court could only be decreed in a regular suit. "On principle, I think," said the learned judge, that the proceeding by bill is more correct; for it is obvious that the Court, in trying such matters upon an interlocutory application in the original suit, is called upon to adjudicate on affidavit upon matters depending on equities wholly distinct from the equity appearing upon record in the cause." In *Dawson* v. *Newsome*, however, Stuart, V.C., said, "that whenever under the present fortunately improved practice an agreement for the compromise of a suit was entered into and a petition presented in order to carry that agreement into effect in the most speedy and least expensive way, he should think it his duty to use every means in his power to make that agreement effective, when consistently with the rights of third parties the matters in question might be safely disposed of in that way." Under the modern practice, as the Vice Chancellor pointed out in his judgment in this case, if the petitioner were refused relief upon the ground that he had adopted a wrong mode of procedure, he would have nothing to do but to alter the form of the petition into that of a bill, and give notice of motion for a decree, which he might obtain upon precisely the same evidence as had proved insufficient upon the petition. This would be an obvious absurdity under the new system of practice inaugurated in 1852. It must not be forgotten, however, that even now it would be dangerous to attempt to enforce by petition an agreement for the compromise of a suit where the agreement for the compromise itself involves new matter, or the interests of any persons who are not parties to the suit, and, perhaps, it might also be added where the agreement itself—*ex. gr.* as to the manner in which it was obtained, ignorance of a compromising party as to his rights, &c.—would appear properly to form a distinct matter of litigation. But after the case of *Dawson* v. *Newsome*, and the observations of Vice-Chancellor Stuart, in delivering judgment, there can be little risk for the future, where there is a plain and unquestionable agreement for compromising a suit which has been fairly entered into between the parties, and which does not involve the rights and obligations of third persons, in resorting to the summary expedient of a petition rather than to the slower process of a bill, for the enforcement of the agreement.

COMMON LAW.

Attorney—Affidavit of Increase—Costs of Witnesses.

Cross v. *Durell*, 8 W. R., Ex., 630.

This was an application to the Court to order a review of the taxation of the costs which the unsuccessful party had to pay to the other, on the ground that in the affidavit of increase certain of the successful party's witnesses had been alleged to have been paid prior to taxation, whereas at the date thereof such witnesses had not in fact been paid. It appeared that the mistake had probably been made without any corrupt intention on the part of the attorney in the cause, as he had handed to his client a list of the witnesses and the amount due to each, and had received back from him what purported to be receipts from the respective witnesses; and it was alleged that it was on the faith of this representation that the attorney made the affidavit. The Court said that the rule which confines the allowances for witnesses to the expenses *actually* paid before taxation, was of great importance and must be rigidly enforced. They therefore made absolute the rule for a review of taxation, and in so doing followed the precedent of the Queen's Bench, in the case of *Trent* v. *Harrison* (2 D. & L. 941).

It should be noticed that in cases of this kind in which the courts have any reason to suppose that the affidavit of increase was wilfully, or even grossly carelessly missworn, very severe language is used. In a recent case the Court of Queen's Bench suspended from practice an attorney who had so misconducted himself; and Lord Campbell took occasion to say:—"The charge of fraud is answered; therefore the party will not be struck off the roll. But his conduct has been highly reprehensible in swearing that he had paid money when he had only advanced it for the purpose of being paid, or when at the time of swearing he had only promised it. The practice in swearing these affidavits of increase has often been censured as lax, but has not been reformed" (*Re Flewker*, cited in *Doe d. Mence* v. *Hadley*, 17 Q. B. 572).

Tort—Measure of Damages—Malice.

Emblin v. *Myers*, 8 W. R., Exch., 665.

It was mentioned last week that in case of a *bare* tort, the actual loss sustained was often, and indeed generally, the true measure of damages; but where the injury is wilful and malicious, this is otherwise. Of the latter branch of this proposition, the present case is an apt illustration. It was an action for pulling down a wall of the defendant in such a negligent way as to injure some of the plaintiff's property; and at the trial words of the defendant were given in evidence, which showed not only that ill will existed between him and the plaintiff (who was his next neighbour), but that he had contemplated and been desirous that the plaintiff's property should be injured by the removing of the wall, in the manner which ultimately turned out to be the case. Under these circumstances, the judge told the jury that they might, in estimating the damage, take into account the malicious *animus* of the defendant; which they accordingly did, giving a sum of money considerably beyond the actual value of the property injured. It was urged, in seeking to set aside this verdict on the ground of misdirection, that though malice might properly aggravate the damages in actions in which it would be *implied* by law (such as for a false imprisonment and the like), the same rule did not arise in actions in which (as in the present) it was the province of the jury to decide whether, under the particular circumstances, malice did or did not exist. The Court, however, held that no such distinction existed; but that in every case the jury might properly take the whole of the circumstances under consideration: and if they thought the defendant had been recklessly or maliciously disregardful of the safety of the plaintiff or his property, might give damages with a liberal hand. In the words of Bramwell, B., "there is no reason why the principle of malice being an element in assessing damages, should be limited to actions of *trespass* and should not extend to actions of *negligence*."

Practice—Notices must be in Writing.

Woodward v. *North*, 8 W. R., Exch., 694.

This case supplies a direct authority (though perhaps one is hardly required) for the practice which makes it proper and indeed necessary that every *notice* from one party in an action to another, which authorises any subsequent step, should be in writing. With respect, indeed, to such notices as are *required* by any general rule or by the practice of the Court, there is an express rule of Court to this effect—namely, Reg. Gen. H. T. 1833, Pr. r. 161. But the same necessity exists where a notice is not required to be given, but *may* be given by one party to the other; as where under Reg. Gen. E. T. 1857, the defendant by giving notice that he intends to oppose an application by the plaintiff for costs in actions of contract under £20, in which judgment has been suffered in default—prevents an order for costs being obtained by the plaintiff *ex parte*. The Court held that the rule of H. T. 1853 was a very valuable one, and operated to prevent perjury; and that the subsequent rule of E. T. 1857, was a rule of the practice of the Court, and, therefore, within the previous rule.

Correspondence.

LORD CRANWORTH'S TRUSTEES AND MORTGAGEES ACT.

Will you allow me to address you, in few words, on Lord Cranworth's Act? I have seen a proposal to introduce into deeds and wills a clause declaring that the Act shall be wholly inapplicable to them. I cannot think that this suggestion is a wise one, if it be made merely because of an imperfection in some of the clauses, or a worthy one if it be made on the ground of pecuniary interest. The design of the Act is the same as that of the Lands Clauses and Companies Clauses Acts, and the General Enclosure Act, which contain enactments of great length, rendering unnecessary the insertion

of similar clauses in each particular Act. Such is the purpose of Lord Cranworth's Act, in its application to deeds and wills. If those who have made the above unfriendly suggestion in regard to Lord Cranworth's Act think any of the clauses imperfect, the proper course is to state their objections with the reasons. It may be that some of the provisions are inapplicable. If so, let us see and distinguish these clauses from the others. The several enactments are independent of each other, and the greater number, at all events, will, I apprehend, be found capable of being universally applied.

Let us look at them in detail.

In the earlier sections, trustees who have a power of sale are authorised to sell in lots, either by auction or private contract, at one time or several times, and under such special conditions as they shall think fit, and to buy in and resell; and those who have power to sell may convey; and persons acting under a power of sale are authorised to lay out the money according to the direction in the instrument, or in land. These things are usually provided for in long clauses—and can any of us deny that it is reasonable that trustees should have these powers without the constant repetition of them?

The Act also contains powers to mortgagees to insure buildings, and charge the premiums, and to appoint or obtain the appointment of a receiver; also a power to trustees to apply the income of infants' shares for their maintenance (without inquiring into the ability of their father or their income from other sources), the receipts of persons authorised to sell, and of trustees generally, are to be sufficient; and executors are to be at liberty to compound and submit to arbitration. These provisions also are of great convenience and importance.

All these provisions are set forth with the same particularity which conveyancers use in deeds and wills, and I am not aware of any imperfection that should prevent their being used. If there be such objection, it would be a service to the profession and the public to point it out.

There are some clauses on which solicitors may pause till they have some further assurance. The power (sect. 8) to renew leaseholds may often be very useful, but it is made compulsory on trustees to renew if any person having a beneficial interest require it, even if other persons interested object, and the settlor or testator has given no direction. This may be too strong. The trustees ought perhaps to have discretion to renew or not, unless called on by all the beneficiaries. If there be this imperfection, it would be sufficient to declare in the deed or will, that the trustees shall have power to renew, but shall not be required to do so unless called on by the person or persons interested for the time being.

Sect. 11 enacts that a mortgagee may sell, after the default specified in the clause, on giving six months' notice to any one of the owners. This hardly seems a sufficient security to other part owners, who may never hear of the notice, and it may admit of collusion. This may be corrected by a statement in the mortgage deed that no sale shall take place without a notice being given to the mortgagor, his heirs or assigns, or affixed, &c.

Also, the powers given by the Act to appoint new trustees would not apply except where the appointment is to be made by the surviving trustees of their own authority alone. It is frequently desired that the appointment should be made by, or with the consent of, some other person. In such a case the clause can be set out in the deed or will, as at present; or it can be said that any appointment shall require the consent of, &c.

Now if it is necessary that in some cases these latter powers should be set out as at present, or that a modification should be expressed as above, this should not in the least lessen the use of the Act in other things; seeing (as I have said) that the clauses are independent of each other, and that some may be used if others are not. If there be other objections let them be stated in detail, that they may be removed. This alone is fair dealing with a measure which is intended to improve the practice of conveyancing. Surely your readers approve of the Lands Clauses Act, and Companies Clauses Act, and General Enclosure Act; yet these three Acts apply to transactions not a hundredth part so numerous as the instruments which may be affected by Lord Cranworth's Act.

Besides that which has been the subject of this letter, (viz., that some of the clauses may be thought to be imperfect or partially inapplicable,) I know but of one objection, it is that the legal profits of conveyancing would be unreasonably lessened. It certainly is very much to be wished that the principle of remuneration were altered; but simplified deeds and wills would be better for our clients, even if they paid the same sums for them as before; and if it be acknowledged that after this Act, long clauses can be left out with perfect safety and even with advantage, can we continue to insert them merely to be enabled to charge for them? And might we not, for the same reason, have gone on preparing assignments of terms and leases for a year, after they had been made unnecessary, or have continued the *verbiage* which we find in the older deeds, but which has happily passed away and would now be offensive to good taste, good sense, and good conscience?

Let us seek for an alteration in the mode of payment of fees; but meanwhile not do so little justice to ourselves and to our profession (which we would call liberal and honourable), as to prefer prolixity and technicality to simplicity and common sense, and thus fail to co-operate with those who are doing their best to make some improvement in our imperfect human doings.

Bristol, Nov. 12, 1860. JAMES LIVETT.

PROOF OF CANCELLATION OF STAMPS ON AGREEMENTS.

I would suggest, with reference to this, that the stamp should be placed at the foot of the agreement, and that the party should sign his name across it, writing the date below. The proof of the agreement would thus be the proof of the cancellation. It must be borne in mind, however, that the stamp must be cancelled by "every party to the agreement who shall sign the same;" therefore, unless the stamps are large enough for all the persons to sign their names across another plan must be adopted. A. G. P.

THE COMMON LAW MASTERS.

Allow me to remove the erroneous impression conveyed to your readers by the letter of a "Common Law Managing Clerk" in your last number, as to the work done by the common law masters. During the vacation, Master Gordon has taxed of a morning from seventy to eighty bills of costs, and when he had finished these, he has taken references in order to expedite justice. He took one for us beginning at two o'clock, when the offices closed, and proceeded with it till five; and this upon several occasions. I think it right that so great an error as that committed by your correspondent should be corrected and forthwith. A CONSTANT READER.

MUNICIPAL LAW.

In November, 1858, A. B. was elected a town councillor for a borough, being on the burgess list and duly qualified. About twelve months ago he left the borough and went to reside permanently at fifty miles distant therefrom, where he has ever since continued to dwell. Upon leaving the borough, and ceasing to be an occupier of premises therein, his name was erased from the poors' rate, and also from the burgess list. Although he so ceased to be a burgess he has continued to hold the office to the present time, and occasionally (about every two months) comes to the borough, attends the meetings of the council, and takes part in the proceedings, considering he has a right to do so—that the 52nd clause of the Municipal Act (5 & 6 Will. 4, c. 76,) applies to his case, and that as he is not absent from the borough for more than six months' at a time he is not disqualified from acting; but on the contrary, that in case of his entire absence he would be liable to a fine of £50.

It appears to me that by sect. 28 of the Act, no person is qualified to be elected, or to be a councillor who shall not be entitled to be on the burgess list—and I conceive that sect. 52 does not at all apply to the case, but is applicable only to a person duly qualified, and who neglects his duty by absence.

It is, however, the opinion of some persons that he is qualified and has a right to attend, and act until the expiration of his term of office (three years)—of others, that he is disqualified—which is correct? A SUBSCRIBER.

SOLICITOR'S LIEN ON FUND IN COURT.

I wish to call your attention to the question which arose in the course of the suit of *Grimsby* v. *Webster* (8 W. R., 725) as to the right of a solicitor to a lien of £50 upon a fund in court. It appeared that a tenant for life of a trust fund had induced the trustees to commit a breach of trust, by selling out and handing to him a portion of the fund. This advance was secured by a policy of assurance on his life. The *ces-*

cuis que truste in remainder subsequently purchased the interest of the tenant for life for a sum of £200, and debited him with a sum of £50, which he owed to his solicitor for costs and advances. An arrangement was made between the solicitor of the parties, and the solicitor claiming the lien, that the policy should be sold, and the £50 paid out of the proceeds. This arrangement was not, however, carried out, and a bill was ultimately filed on the death of the tenant for life, by some of the parties interested, and the amount of the policy was paid into court. The solicitor claiming the lien, who had no notice of the suit, gave notice of his claim to the several parties, and obtained a stop order on the fund. On the cause coming on to be heard, Kindersley made a declaration in favour of the solicitor's right to the lien, and also gave him the costs of obtaining the stop order. The law of solicitors' lien has not been in a very satisfactory state since the decision of the case of *Shaw* v. *Neale* in the House of Lords, in which it was held that a solicitor acquired no right of lien upon real estate for his costs and expenses incurred in recovering an estate. A salutary change in the law, however, has recently been made by the Attorneys and Solicitors Act passed last session. The 28th section of that Act — 23 & 24 Vict. c. 127 — empowers the court or judge before whom any suit, matter, or proceeding shall be depending, to declare the attorney or solicitor engaged therein entitled to a charge upon the property recovered or preserved; and upon such declaration being made, "such attorney or solicitor shall *have a charge* upon and against, and a right to payment out of the property, of whatsoever nature, tenure, or kind the same may be, for the taxed costs, charges, and expenses of or in reference to such suit, &c.; and it shall be lawful for such court or judge to make such order or orders for taxation of, and for raising and payment of, such costs, charges, and expenses out of the said property, as to such court or judge shall appear just and proper." This and the preceding section allowing a charge for interest upon costs in certain cases, were very properly introduced into the statute to which reference has been made, as solicitors frequently suffered great injustice from the want of such provisions. The decision in the case of *Grimsby* v. *Webster* was decided previously to the passing of the statute, and seems mainly to have proceeded upon the ground that there was an agreement by all the parties that the costs of the solicitors should be paid out of the proceeds of the policy; but the case is of importance as an authority upon the subject of the law of lien in relation to the profession. W.

The Provinces.

BIRMINGHAM.—On the 27th of August last, the Council of the Chamber of Commerce for Birmingham and the midland district, presented a memorial to the Lords Commissioners of her Majesty's Treasury, praying for the reduction and revision of certain fees payable on the registration of designs under the Copyright of Designs Acts. The memorial was prepared by Mr. Arthur Ryland, Vice-President of the Chamber. On the 3rd inst., the Council received from Mr. G. A. Hamilton, Secretary to the Lords of the Treasury, the following reply to the memorial:—"Gentlemen, with reference to your memorial of the 27th of last August, praying that the fees now charged for registration of designs, under 5 & 6 Vict. cap. 65 and cap. 100, and subsequent Acts, may be revised with a view to their reduction, and also praying that the fees now charged for the registration of designs for metallic goods may be reduced from £3 to £1, I am desired by the Lords Commissioners of her Majesty's Treasury to acquaint you that their Lordships have signified to the Board of Trade their approval of the reduction of the fee on metal designs from £3 to £1. I am at the same time to state that there does not appear to their lordships to be sufficient reason to justify the reduction of the fees on the registration of useful designs.—I am, gentlemen, your obedient servant, GEO. A. HAMILTON."

A case, which has excited a good deal of curiosity in various quarters, was heard before Leigh Trafford, Esq., judge of the county court, on the 7th inst. Mr. J. B. Hebert, who is captain of No. 10 Company of the Birmingham Rifle Volunteers, summoned Lieutenant Jeffries, of the same corps, to show cause why he had neglected to pay a sum of £8, as his share of contribution towards the fund for the maintenance of the band belonging to the battalion. When the case was called on it was intimated to the Court that there was an objection to the particulars as set forth upon the face of the summons, and it was contended that according to these there was no ground of action. The judge having examined the plaint, observed that no contract was set forth upon the face of it. The contribution might be, and he supposed was, voluntary. He thought the plaintiff must show upon the face of the summons the contract, and if it was a special contract that should also be stated. Time was given to amend the particulars, and the case adjourned until the 5th December.

BRISTOL.—*Bankruptcy Court.—Re T. R. Hutton, late official assignee.*—A meeting for hearing claims against the fund derived from the securities of this officer was held on the 7th instant. The following order was drawn up, and signed by Mr. Commissioner Hill:—"This being the day appointed by me for the hearing of applications or objections in reference to the accounts prepared by the late Mr. P. R. Power, of the defalcations of the above-named Thomas Rennie Hutton, the following solicitors, representing various estates included in such account, attended before me—that is to say, Messrs. H. Brittan & Son, by Mr. Henry Brittan; Messrs. Bevan, Girling, & Press, by Mr. Press; Messrs. M. Brittan & Sons, by Mr. Alfred Brittan; Messrs. Whittington & Gribble, by Mr. Gribble; Mr. Wilkes, of Gloucester; Messrs. Bush, Ray, & Co., by Mr. Ray; Mr. Henderson, and Mr. Charles Bevan; and with their assent, I do order that the accounts of the said Mr. Thomas Rennie Hutton with the said several estates be adjusted according to the data furnished by the said Mr. P. R. Power, as contained in the list thereof now signed by me, and that the account of the moneys recovered from the said Mr. Hutton's sureties be audited before me, at a sitting to be held in this court on Friday, the twenty-third day of this instant month of November, to the intent that the net amount of such moneys be divided amongst the said several estates, upon the basis of the before-mentioned account."

FAVERSHAM.—At a meeting of the Town Council on the 9th inst., Mr. Samuel George Johnson, a solicitor of this town, was unanimously re-elected mayor of the borough. At the conclusion of the business of the day, Mr. Alderman Spong, in a highly complimentary speech, on behalf of the council presented Mr. Johnson with a large silver salver, upon which it is intended the following inscription shall be engraved:—"Presented to S. G. Johnson, Esq., on the 9th day of November, A. D. 1860, by Mr Alderman Spong, on behalf of the council, as a memorial of the honourable manner in which he has filled the office of Mayor of Faversham during the past year."

LIVERPOOL.—The fees of the magistrates' clerks of this borough last year amounted to the sum of £7,197, and after deducting the salaries and other disbursements there was a balance handed over to the borough fund of £4,307.

MANCHESTER.—The Manchester Chamber of Commerce held a meeting on the 14th instant, for the purpose of conferring with Mr. Samuel Morley, of London, and other gentlemen, on the prospects of the amendment of the laws relating to bankruptcy and insolvency. Mr. Edmund Potter, president of the chamber, was in the chair. Mr. Morley stated that unless the mercantile interests took some special steps to be represented as creditors in the House of Commons, they had no chance of obtaining a valuable measure of amendment. The principle upon which they were acting was that the property of an insolvent trader, the instant he was discovered to be insolvent, belonged, not to himself, but to his creditors. He believed, however, that such views did not find utterance in the House of Commons. He stated that Sir Richard Bethell was desirous "to do the bidding" of the mercantile interests, provided he had sufficient information conveyed to him in time for the purpose. He then read a letter which had been written by Sir R. Bethell, and which was as follows:—"London, Oct. 22. Dear Sir,—I am very sorry I shall not be in town after to-day until the 1st November. I am very much disgusted by the absurd accusations brought against me of having abandoned the Bankruptcy Bill through ill-humour. I certainly was treated by the members for places most clamorous for the Bill in a manner to provoke ill-humour, after the labour and sacrifices I had made; but the Bill was given up after the most deliberate consideration with Lord Palmerston, and in consequence of the leading law lords having stated that they certainly would not proceed with it if it came up to them after July; and no human exertion, even with the concessions I made so injuriously, could have got the Bill through the Commons before the 5th or 6th of August. The defeat of the Bill is due to the division on Sir H. Willoughby's motion, when the members for Coventry, Nottingham, Birmingham, and many other large towns voted against me in perfect ignorance of the matter,

That lost me nearly three weeks, and was the real cause, joined to the faint support I received, of the loss of the Bill. I do not think you will find a division list in which half of the members pledged to support the Bill were present. Yours faithfully, RICHARD BETHELL."—Several gentlemen having addressed the meeting, the following resolution was moved and carried unanimously:—"That this Chamber has heard with great satisfaction that her Majesty's Government are pledged to introduce, at the commencement of the next Session of Parliament, a Bill to amend the laws affecting bankruptcy and insolvency, and trusts that they will spare no efforts to secure the enactment of a simple practical measure for that purpose; and further trusts that another Session may not be permitted to pass away without the settlement of a question so important to the interests of this community."

WAKEFIELD.—A special adjourned sessions, at which a considerable number of magistrates of the West Riding attended, was held at the West Riding Court House on the 7th inst., to take into consideration the report of a committee, which had been appointed in April last, to act with the Riding solicitor for the purpose of preparing the draft of a Bill for altering the present expensive mode of election of the registrar of deeds for the West Riding, and for paying all future registrars by salary, and not by fees, and for the better regulation of the office. The committee reported that a Bill for the purpose had been prepared by the Riding solicitor, and that they approved of it. Mr. John Marsden, the solicitor to the magistrates, having read the draft of the Bill, considerable discussion ensued as to the manner in which the expense of obtaining the passing of the Act through Parliament should be provided; and it appearing doubtful whether the expense could be defrayed out of the county rates, or that an attempt to pass such a Bill would meet with success, the consideration of the matter was adjourned *sine die*. Mr. Dibb (the deputy registrar of the Riding) stated that if power were given to register wills by affidavit it would result in a saving of from £5,000 to £6,000 per annum to the Riding.

Ireland.

REAL PROPERTY LAW AMENDMENTS OF THE SESSION 1860.

(Continued from p. 9, ante.)

The Landlord and Tenant Consolidation Act (23 & 24 Vict c. 154), which became law on the 28th August last, and will come into operation on the 1st January, 1861, is more ambitious in its object than most of the current legislation, for it both consolidates and amends a highly important branch of law. The law of landlord and tenant in Ireland was to be found scattered through forty statutes, and it was a useful work to condense and simplify it, and bring it within the compass of one Act of Parliament; for assuredly there are elements of mischief enough, politically and socially, between landowners and their tenants, without the further difficulties arising from uncertain and diffuse laws. Henceforward the new Act will alone be referred to; and by it the numerous Acts dealing with the same subject are repealed, and cleared out of the way, while it also contains some new and useful clauses tending to relieve the landlord and tenant code of much that was feudal in principle and tortuous and obscure in practice.

The new law as contained in this statute, may be divided into three heads.—(1.) The creation, assignment, and surrender of tenancies. (2.) The rights of landlord and tenant, as incident to the tennancy. (3.) The legal remedies available to the landlord.

(1.) *The creation, assignment, and surrender of tenancies.*—The relation of landlord and tenant is henceforward to be considered as founded on *contract* only; and it is not necessary that there should be a reversion in the landlord. All tenancies for more than one year are to be created by writing; and leases and agreements for leases must also be in writing signed by the landlord, or by his agent authorized in writing. (Altering in this respect the law as enacted both by the Statute of Frauds and 8 & 9 Vict. c. 106.) A tenant continuing to hold the premises after the expiration of his lease, is to be taken to be a yearly tenant at his former rent: but after demand in writing of possession by the landlord or his agent, he will be liable to pay double rent. To avoid disputes as to when tenancies commenced, it is declared that yearly tenancies shall (in the absence of evidence) be presumed to have commenced at the last rent-day of the year. Surrenders can henceforward only take place by deed or writing signed by the tenant, or by operation of law; so that a verbal agreement to surrender, or the cancelling of a lease, will be insufficient. A lease may be surrendered and a renewal obtained without any surrender of the interests of sub-tenants, and the remedies of the head landlord shall not be affected by such renewal. Assignments of leases, which by 8 & 9 Vict. c. 106 must be effected by deed, will now be valid if made either by deed or by note in writing; and if not assigned or otherwise disposed of, a lease shall, on the tenant's death, pass as part of his personal estate to his representatives. Where the lease contains a clause (a frequent one in Ireland) against sub-letting without consent, the landlord's consent by deed or memorandum endorsed shall be requisite to render a sub-lease valid; and the assignee shall be liable to the agreements in respect of sub-letting, &c., as the lessee would be. The covenants, in a lease or contract, are to subsist and remain in force, notwithstanding any devolution of interest from the landlord; and in the same way the benefit of covenants and agreements entered into by the landlord will devolve upon any person upon whom the tenant's interest may legally devolve. No assignee shall be liable in respect of breaches of covenant occurring before the assignment to him, provided that notice in writing of every assignment by a tenant shall have been given to the landlord; and every tenant being an assignee, shall remain liable for the rent due up to the rent day following such notice of assignment. Any landlord assenting to an assignment, shall be deemed to have discharged the original tenant from all actions, &c. Fixtures of trade or agriculture, erected by the tenant, and removable without substantial damage to the premises, may be removed within two months after the tenancy is expired, compensation for damage (if any) being made. In order to obviate disputes as to whether waiver of a covenant has taken place on the part of the landlord, it is enacted that no act of the landlord shall be deemed a dispensation with or waiver of any covenant or condition contained in a lease made after the commencement of the Act, unless the waiver be signified in writing by the landlord or his authorised agent.

(2.) *As to the incidents of a tenancy.*—In every lease or agreement made after the passing of the Act, shall be *implied* a covenant by the landlord that he has good title and for quiet enjoyment. Tenants holding *perpetual* interests under leases made after 1st January, 1861, are not to be impeachable of waste, except so far as expressly restrained from waste. On the other hand, when the lease is for a term of years, or otherwise determinable in its nature, the tenant shall not, without previous consent in writing, open any mines or quarries or commit any kind of waste. But the tenant holding under any such lease may work mines, &c., already opened, unless restrained in terms by the lease; and the tenant may also work any quarries, already opened or worked, for purposes of agriculture or of necessary building, but not for trade or sale, unless the written authority of the landlord be obtained. In the same way the right of turbary may be enjoyed by the tenant, but only for the use of himself and his lawful sub-tenants. Tenants holding under terminable leases are, by other sections, prohibited from "burning" the land, and from cutting down trees and underwoods, under severe penalties, to be recovered by the landlord at quarter sessions. Where unlawful waste or destruction is apprehended, or is being perpetrated, the landlord may, on affidavit, obtain a "precept" from a magistrate, enjoining all persons to desist from such injury, &c., disobedience to which may be punished by a month's imprisonment. An appeal lies to a judge of assize or to quarter sessions, and costs and compensation may be awarded. Where mines, &c., are *reserved* by the lease, they may be worked or leased by the landlord, who may enter for that purpose, making compensation for any damage inflicted, such compensation to be (if necessary) assessed at quarter sessions. Two important changes in the law relating to the sudden determination of tenancies are as follows:—Where the tenancy ends by the death or cesser of the interest of the landlord, or by a like uncertain event, the tenant may in lieu of claiming his emblements (as formerly allowed by the law), continue to hold the premises until the last rent-day of the current year, paying rent as theretofore. Again, if any house or building, the subject of the lease, as to rebuilding which there is no express covenant, be destroyed or become ruinous, without default of the tenant, he may surrender forthwith, and on payment of rent due, shall be discharged from further obligation as to rent or covenants thenceforward. Every lease to be made after the commencement of the Act, is to *imply* agreements by the tenant to pay rent, and to keep the premises in repair, and at

the end of the term to give up peaceable possession, &c. With regard to the payment of rent, the following alterations in the law are made (by sections 47—51), and thereby are set at rest certain fruitful sources of litigation between landlords and tenants. Every receipt for rent shall specify the day of its falling due, otherwise such rent shall, in any action or proceeding whatsoever, be deemed to have been in payment of rent falling due on the rent day next before the date of the payment, and shall be *primâ facie* evidence of no arrears being due. In paying rent the tenant may set off all just debts due to him by his landlord. In the event of the landlord's death the rent shall in all cases be apportioned; and lastly, no distress shall be made for rent due more than one year before the making of the distress.

(3.) *Actions and proceedings at law by landlord against tenant.*—This Act provides that in all proceedings, proof of the perfection of the counterpart shall be equivalent to proof of perfection of the original lease; and if no counterpart be forthcoming, proof of a copy may be sufficient as against the tenant, and the next section makes the receipt of rent for one year (provided that such receipt be within three years preceding) *primâ facie* evidence of title. The surrender to, or resumption by a landlord, or the eviction of any portion of the demised premises, shall not in any way prejudice his rights as to the residue of the premises. Every person entitled (in his own or any other right) to rent in arrear, whether the tenancy be continuing or not, may recover such rent by action in the superior courts, or, where the amount shall not exceed £100, at quarter sessions. And, where the amount of rent has not been fixed, the landlord may in like manner recover a reasonable sum for use and occupation of the premises. The law of distress remains untouched by this Act, except that, as before stated, one year's arrears only can henceforward be distrained for. But increased remedies of another kind are given in case of non-payment of rent, for where a year's arrears are due the landlord may instantly proceed by ejectment, and he is not now, as formerly, liable to be defeated by reason of the legal estate being in another person, provided he can show that he is beneficially entitled to the rent. The mode of service of the ejectment is also considerably simplified; but the changes in practice are not all for the landlord's benefit. The tenant is allowed to bring forward any defence—legal or equitable—that he may think proper; and even after decree obtained, he is allowed a space of six months for "redemption," within which, on payment of arrears and costs, he may be restored to possession of the premises, and may obtain such relief as a court of equity might have granted. Overholding tenants are made liable to double rent, and where the rent does not exceed £100, a mode of proceeding at quarter sessions is provided for the recovery of the premises; and mesne rates may also be recovered in like manner. But in the case of deserted premises, possession may be recovered by proceeding at sessions, whatever may be the annual value of the premises. Several other sections deal with the course of practice of the inferior courts in ejectments, &c., under this Act, and do not call for observation. When the *title* to the premises is in question, the jurisdiction of quarter sessions is altogether excluded by section 101.

There is a separate code for "cottier tenants," or tenants who hold any small plots of ground at monthly rents; these are entitled to have their cottages kept in repair by the landlord; and if dispossessed by him, are entitled to a "fair compensation" for growing crops, to be recovered by process at sessions. On the other hand, if the rent be not paid, or if waste be committed, the cottier tenant is liable to be evicted in a very summary manner.

Such are the outlines of an Act which embodies the whole existing law of landlord and tenant in Ireland, while it also introduces several well-considered changes. As an example of useful "consolidation," it is well worthy of imitation.

The following gentlemen were called to the bar on the 9th inst.:—

Robert Daniel, A.B., T.C.D., third son of Patrick Daniel, Grafton-street, Dublin, merchant. David Ross, A.M., and LL.B., Belfast College, Queen's University, second son of the Rev. Richard Ross, late of Dunbrain, county of Monaghan, deceased. The Hon. Henry Leeson, A.B., T.C.D., third son of Joseph, Earl of Miltown, of Russborough, county of Wicklow. Robert Patrick O'Hara, B.A., Caius College, Cambridge, only son of John O'Hara, late of Raheen, county of Galway, deceased. Isaac Heazle, A.B., T.C.D., eldest son of Wm. Heazle, of Cork. Robert Lyon Moore, A.B., T.C.D., eldest son of William Moore, late of Molenan, county Derry, deceased.

Foreign Tribunals and Jurisprudence.

(From the *Gazette des Tribunaux*, 17th Oct., by WILLIAM HACKETT, Esq., Barrister-at-Law.)

TRIBUNAL OF COMMERCE OF THE SEINE.

FOREIGN ANONYMOUS SOCIETY—ACTION TO NULLIFY SUBSCRIPTION FOR SHARES—INCOMPETENCE.

French tribunals will not take cognizance of an action by or against an anonymous society, having its chief seat of business in a foreign country, where the cause of action concerns the affairs of the society.

M. Panis had subscribed in 1853 for 400 shares of £20 each in the Anonymous Belgian Society of Mines, &c. He now claimed of the society that his subscription should be made null, and the sum of £8,000 recouped to him as the value of the shares. He maintained his claim on the ground that MM. Leclercq and Mouton, the delegated administrators of the society, instead of giving him shares reserved for public subscription, had transferred to him shares which had been given to them personally as the reward of their aid, and argued from this fact that he was not in reality a shareholder of the company, but a purchaser of the shares of the founders, and was entitled to sue them for a nullity of his subscription in a personal action. The defendants objected that the demand being against a company which had its seat at Charleroi, should have been brought before the Belgian tribunals. The Tribunal decided as follows:—

"Considering, that it results from the correspondence produced to the Tribunal, and addressed by Panis to the said Society of Mines, &c., that the said Panis, by undertaking to make the payments to which he was obliged as the holder of the shares, acknowledged himself the subscriber for these shares;

"Considering, that the action now commenced by Panis is in reality only intended to effect the nullity of his subscription; that the dispute is eminently and essentially one concerning the society; and that the society in question has its chief seat at Charleroi (in Belgium); that, therefore, the Tribunal is incompetent to take cognizance of the suit;

"For these reasons, declares itself incompetent; consequently remits the cause and the parties before the judges who ought to have cognizance of it, and condemns the plaintiff in costs."

COUR IMPERIALE DE DIJON.

FRAUDULENT MISREPRESENTATION BY A TRADESMAN.

An action will lie for damages by one tradesman against another for assuming a title (such as agent for a particular purpose), without the license of the person authorised to confer the title.

The Court also, in such a case, will restrain the defendant from issuing advertisements thus founded on falsehood.

Aug. 13.—Boyer, a bookseller at Chalon-sur-Saône, inserted in the journals advertisements in which he styled himself sole agent for the *Chant Lambillotte* adopted by the diocese of Autun. Mulcey, also a bookseller at Chalon, pretending that these announcements contained untrue statements, and that they tended to deceive the public by representing Boyer as invested with an exclusive privilege which did not belong to him, summoned Boyer before the Tribunal of Commerce, claiming damages and the insertion of the judgment in four journals at the choice of the complainant. Boyer, on the other hand, maintained that, seeing that Mulcey did not qualify as the agent of the house of Leclére (the proprietors of the work in question), he had no right to dispute this quality in any one else, that the house of Leclére alone had a right to complain; and that Mulcey had not sustained any damage.

The Tribunal delivered the following judgment:—

"Considering that it is ascertained:

"1. That Boyer has, in repeated announcements, assumed the title of sole agent of the *Chant Lambillotte* adopted by the diocese of Antun.

"2. That this title in no manner belongs to him, since the editor Leclére declares that he has not established agencies of any kind in our city;

"Considering that by thus attributing to himself a privilege which he does not possess, Boyer has committed an act con-

trary to truth and to the usages of commerce, an act capable of injuring other bookselling houses, and for which they, and probably the complainant, have a right to demand reparation;

"That the law has pronounced in a formal manner the condemnation of these announcements founded on falsehood; that it thus made a decision in the Imperial Court of Paris of the 10th February, 1852, in the case of a merchant who, in his circulars pretended that he was the sole proprietor of the principal quarries of La Ferté;

"That it is of small importance that the editor and proprietor of the works in question permits his purchasers to take all the titles which suit them relatively to the said works, that the solution suggested by Boyer and consisting in this that Mulcey might in his turn assume the usurped character of sole agent of the same works, and respond to false assertions by assertions equally false, is contrary to the dignity and good-faith of commerce, and would be sufficient to prove the necessity of coercive measures on the part of the judicature;

"Considering, that a case has been made for the allowance of the conclusions of Mulcey, as relates to the cessation of the advertisements, and the publication of the decree for an injunction (*jugement à intervenir*), but that as concerns the damages claimed, there has not at present been any case made out, and in this respect it will be enough to impose on Boyer the expenses of publishing and of the present judgment."

On an appeal made by Boyer the Court confirmed the judgment and gave 200 francs damages against Boyer.

FRANCE.—Photograph visiting cards are now generally use in Paris by persons in every station of life. Such cards are to be seen in the shop window of every picture shop in Paris. The Imperial law officers, however, have discovered that according to the law of the 17th of February, 1852, no drawing or photograph can be exhibited or exposed for sale without the permission of the Minister of Police in Paris or the Prefects of Departments, under the penalty of imprisonment for a period of from one month to a year, a fine of from 100f. to 1,000f., and the confiscation of the prints so exhibited. MM. Huvier, the stationers in the Rue Laffitte, and Pesme, the photographic artist, were summoned to the Paris police court a few days since for having violated the law of the 17th of February, 1852. M. Pesme in his defence stated that he had never left a visiting card with the Minister. The president told him that as long as he confined himself to executing cards for private persons, and delivered them, it was all very well, but that when he exhibited them for sale he should comply with the law. The Imperial advocate said the law was formal. The president, after hearing counsel for the accused, sentenced MM. Huvier and Pesme to imprisonment for one month each, and to a fine of 100f., the cards to be confiscated.

PRUSSIA. *The Assault Case at Bonn.*—The inquiry instituted by the Court of Discipline (*Disciplinhaof*) into the conduct of M. Möller, the Procurer of Bonn, in the case of Captain Macdonald, has terminated. The investigation was ordered by the superior legal authorities, in consequence of the complaints made of the intemperate language used by M. Möller, while acting as public prosecutor in the charge of assault. The Court of Discipline does not review the facts of the case, only the conduct of the judicial functionary, as far as it is impugned. M. Möller, in explanation, stated that the terms he used did not apply to Englishmen in general, not even to all English travellers, but only to those who by their misbehaviour frequently provoked collisions with the authorities. But, as a question of demeanour and conduct, the superior judges have decided that M. Möller's violent language was unbecoming his judicial functions, and have therefore visited him with a reprimand.

Reviews.

The Practice of Wills and Administrations. By GEORGE S. ALLNUTT, Esq., of the Middle Temple, Barrister-at-Law. Fourth Edition. London: Crockford. 1860.

Of all the branches into which the practice of the law may be divided there is probably none more generally interesting, alike to the legal profession and to the community at large, than that which forms the title to this work. Almost every lawyer could name some one or department branch of legal practice of which he might be, or perhaps is, contentedly ignorant; while the administration of the law in almost all its branches is *terra incognita* to the laity. So intimately, however, does the law concerning the distribution of a dead man's property enter into the affairs of every-day life, that scarcely anybody above the position of the poorest labourer can pass through life without requiring once and again to consult his legal adviser with reference to his own or some relative's testamentary affairs, and no practising lawyer can fail to be frequently—nay; almost daily—so consulted. No wonder, then, that a subject of such general interest should have frequently called forth the energies of legal writers.

Accordingly, Swinburne, in the preface to his "Treatise of Testaments and Last Wills," long the most esteemed—and, perhaps, the only standard—authority on the subject, thus writes—"Great and wonderful is the number of the manifold writers of the civil and ecclesiastical laws, and so huge is the multitude of their sundry sorts of books, as lectures, counsels, tracts, decisions, questions, disputations, repetitions, cautels, clausules, common opinions, singulars, contradictions, concordances, methods, sums, practics, tables, repertories, and books of other kinds (apparent monuments of their endless and invincible labours), that, in my conceit, it is impossible for any one man to read over the hundredth part of their works, though living an hundred years he did intend none other work."

Let us hope, for the sake of our predecessors, that these observations are slightly exaggerated; yet, taken with the requisite grain of salt, Swinburne could not fail to see that they seemed but a strange sort of recommendation to the perusal of a new treatise. He therefore proceeds—"Wherefore, by the publishing of this testamentary treatise, I may be thought to pour water into the sea, to carry owls to Athens, and to trouble the reader with a matter altogether needless and superfluous. But yet for all this, in case this one little book may serve instead of many great volumes; then I hope that in the equal judgment of such as be indifferently affected, the same is rather to be admitted as commodious than rejected as superfluous."

The esteem with which the work thus prefaced has been handed down to us seems to indicate that the worthy jurist found his hearers "indifferently affected." We hope that Mr. Allnutt—who, we think, might make a similar apology—may have a satisfactory reception for his very useful compendium of testamentary law. This work has, we believe, in its earlier editions become so well known to the profession that we need not enlarge upon its general character. Suffice it to say that it is what it professes to be—*a book of practice.* The preparation, execution, and revocation of wills, and the grant of probate and letters of administration, and the management of the testator's or intestate's estate thereunder, are fully treated. The numerous and complicated questions upon the construction of wills have been intentionally omitted.

The plan of the work is as follows:—

The first book, on the "Preparation of Wills," contains five chapters. The first of these, "On Taking Instructions for a Will," contains many valuable suggestions; some of which, well deserving to be borne in mind by all solicitors, we do not remember to have met with in any similar work. Amongst these we would mention the advice given at p. 15, as to the importance of giving a pecuniary legacy to a residuary ~~ega~~tee—a precaution the neglect of which has disappointed the intentions of many a father, and the reasonable expectations of many a son. The laity have received a hint on this subject from Lord St. Leonards in his Handy Book; let us therefore hope that between lawyer and client the rock may be avoided hereafter.

The second chapter, "On Drawing Wills," will be found to contain, interspersed with the text, precedents for all the clauses most usually required in such wills as are commonly prepared without the assistance of conveyancing counsel. The remaining chapters on the execution, revocation, and republication require no special comment.

The second and third books, on "Probate and Administration," contain a careful account of the law, modified by recent legislation, with references to all the more important decisions of the Probate Court on points of practice, and, with the appendix, form a convenient book of reference for the use of practitioners in the Probate Court.

The fourth and last book, "On Winding up the Estate," is probably that which has cost Mr. Allnutt most trouble, and will save most trouble to his readers. We cannot help thinking that the author has acquired by personal experience as an executor, some of that knowledge of this part of his subject

which he seeks to communicate. At least, he shows himself well prepared for that, too often, thankless office.

The Appendix contains, at full length, the enactments relating to the wills of seamen, &c. The Wills Amendment Act (1 Vict. c. 26); the Succession Duty Act; (the office forms relating to this tax will be found in their proper place in the body of the book), and the Court of Probate Acts of 1857 and 1858, and all the rules and orders, forms, and table of fees with reference to the business of the Probate Court.

We have only to add that considerable care seems to have been taken, during the preparation of the work, to notice all the more important decisions, so as to bring the law down to the most modern date; and that the cases cited in this little work, containing about 450 duodecimo pages, are nearly 1,200! We recommend the work to "the equal judgment of such as be indifferently affected."

Le Droit Pénal étudié dans ses Principes, dans les Usages et les Lois des differents Peuples du Monde. Par TISSOT, Professeur de Philosophie à la Faculté des Lettres de Dijon. 2 Vols. 8vo. Paris, 1860.

Paulus Pleydell remarked that a lawyer without literature was a mere mechanic, but that politer studies raised him to the rank of an architect. We are afraid that the English lawyers of the last generation were open to the reproach implied in the words of the learned advocate. There is a story told of Lord Eldon, remarking at the beginning of Michaelmas term, with the complacent air of a man who has achieved a wonderful effort, that he had read Milton's Paradise Lost during the long vacation. Doubtless his lordship thought that such a literary effort in a lawyer was an event worthy of being recorded among the *ana* of the bar. Whether this habit of ignoring the claims of literature be a necessity of the position of the *English* lawyer is a question which will find advocates on both sides; but we reserve the discussion of it for another occasion. Certain it is, that in other countries circumstanced not very dissimilarly from our own, as regards the learned professions—Ireland and Scotland for instance—the law is not so jealous a mistress as to banish from her domain the kindred studies of philosophy and history. In the United States the most distinguished statesmen and the most eminent diplomatists are, with few exceptions, members of the legal profession; and in France, up to a recent period, the bar reckoned amongst its members some of the most brilliant orators of the Chamber of Deputies. Whether the French bar is destined to succumb to the depressing influence of Imperial despotism, or whether the subtle mind which now rules France will fail in its endeavours to enslave a great nation, is a problem only to be solved by history. For our part, we can but hope that the sad forebodings of the greatest forensic orator living of France may not be realised, and that, having already lost the freedom of the press, the French nation may not be doomed to see the mouths of her advocates gagged and freedom of speech utterly extinguished.

For the moment, however, we have not to do with the lawyers of the Forum, but with those of the Academy, with those who in the leisure which the life of a college affords study and criticize the laws of all nations and all ages, and who from a comparison of the laws of different times and countries endeavour to establish the principles by which all legislation should be governed. Such has been the intention of the writer of the work which we have named at the head of this paper, and which as its name indicates is a comparison of the principal criminal codes of the world—an inquiry which is of great interest both for the historian and the philosopher. For, the object of the criminal law being the prevention of all acts which violate public order, it would seem that the increase or diminution of these offences is the most exact measure of morality as well as of social prosperity. This idea, by which M. Tissot appears to have been moved, would alone suffice to mark the philosophical and political importance of the work in question. But its worth in a purely juridical point of view is not less. How many lawyers do we not see who, keeping to the letter of the law, do not trouble themselves concerning its spirit, its history, or its developments? How many others are exclusively devoted to the civil law, because they have neither sufficient largeness of mind to seize the great ideas of the criminal law, nor sufficient generosity of heart to study principles which, although touching the gravest interests of mankind, have rarely the privilege of enriching laborious students? M. Tissot repudiates these unworthy tendencies of elevated understandings. The lawyer should know all branches of the law (*magister in utroque jure*), and amongst them especially that which protects the life, the honour, the liberty of citizens. What would become of the interests regulated by the civil law, without public order, which has its principal foundation in the criminal law? Hence the necessity of a serious study of the principles of criminal law. Jurisprudence, moreover, according to the theories so ably maintained by Rossi, Ortolan, and Mittermaier, is connected with all species of knowledge; all bring to it the tribute of their enlightenment, and become partially incorporated with it. It is, then, true to say, with Nicolini, that it constitutes an immense branch of human knowledge. Now, those sciences which are most intimately connected with the criminal law are philosophy and history, without which it would be nothing more than a tariff of punishments. Nay more, how would it be possible to draw up this tariff without a profound knowledge of man, his nature, his faculties, his wants, his passions; without taking into account the fundamental principles of society, the universal ideas of morality and justice, the origin and precedents of legislation—all things which are peculiarly of the province of history and philosophy?

It is to the close union of the criminal law with these two studies that we owe the comparison which the learned professor just attempted to make; a difficult and bold undertaking, since it implies at once the talent of the historian, the philosopher, and the lawyer. The archives of the criminal law already reckon, independently of numerous commentaries, partial treatises on the origin of law, on the history of law, on its philosophy, as well as on comparative law. M. Tissot desires to do more; he has attempted to condense into one work all the teachings which history, comparative legislation and philosophy present to us, at all times and in all places, concerning repressive law; and this, with the triple object—1, of tracing the progress of mankind by the progress of criminal law; 2, of enlightening, by the labours of the past, those of future legislators; and, finally, of discerning the vices of ancient and existing enactments, ordinances and codes by the light of absolute and immutable rules. It is sufficient to say that the author has not intended to study any particular criminal code; he contemplates universal penal legislation in the principles on which it rests, in the progress which it has made, and in the portion which is equally applicable to all nations, as an assemblage of human creatures, endowed with similar understandings, similar organs, and similar moral or material wants. He thinks, with Vico, that there is a certain part of criminal law which, being essentially founded upon the eternal rules of the immutable reason and nature of man, may be considered as common to all nations, and which, by way of general international law, should contribute to the work of harmonious unity which is the object of civilisation. It no doubt requires enormous labour to extract from the mass of ancient and modern legislation the fruitful and luminous principles of this universal penal law. "In order," says M. Tissot, "properly to apprehend the legislation of a nation, it is necessary thoroughly to understand the nature of that nation; the social, political, religious, moral, intellectual, economical, and physical circumstances which have attended its existence; all these conditions once given, it is easy to determine what, in the legislation of this people, is not founded on reasons drawn from human nature generally, and which consequently can only be explained by exceptional and temporary circumstances; now, as often as human nature, regarded in its essence, in its destiny, is wounded by a positive legislation, consider that this legislation is faulty, is vicious, theoretically speaking, whatever may be the circumstances or necessities to explain it."

Such is the method which the author has applied to the legislation of each nation, carefully and faithfully studied in its order; such is the mode of examination which he has deemed the safest to lead to a sound and rational criticism. No doubt, there is much danger in such an appreciation; but, owing to the cool and logical habits of his mind, to the variety of his historical knowledge, the author has accomplished, with great success and ingenuity, the task which he has undertaken. For the rest, whether we adopt the conclusions of the learned professor, or whether we modify them in whole or in part, certain it is that by the aid of these innumerable comparative investigations, by the aid of this vast *panorama* of the criminal laws of the old world, and the world of our own day, every competent reader may henceforth study, not merely the progress of the civilization of some one nation in particular, but also by comparing together the different states of the criminal law as regards situation and movement, obtain, in each age, a pretty exact general idea of the advance, the immobility or the retrogression, of mankind; in fine, if he wished, on a given point of criminal law, to group together all the opinions of legisla-

tors, it will be possible, enlightened by the experience and the most universal practices of the past, and with perfect knowledge of all the facts, controlled by the science and enlightenment of the present time, to judge of the defects of existing laws, as well as of the improvements which should be made now for the benefit of succeeding times.

We will conclude our notice of the valuable work of the learned professor, by mentioning that the Academy of Moral and Political Sciences has characterized it as exhibiting "a masculine style, deep learning, an understanding accustomed to meditations on the philosophy of law, much and skilful labour, in effect, as being a remarkable treatise in which theory and criticism go hand in hand and mutually aid each other in showing the essence, the rules and the applications, of the criminal law."

Obituary.

MR. ALDERMAN WIRE.

The obituary for the last week contains the respected name of Mr. Alderman Wire, who died on the 9th inst., at his residence at Lewisham. On that very day two years he entered upon the office of Lord Mayor of London, and was soon after seized with an attack of paralysis, consequent it was considered upon the excitement of the occasion. This distemper prevented him from discharging the duties of that important office with his usual energy, and continued to affect him until the period of his death. On the 5th inst., he took part in some civic business, but, on the same night, he suffered a second attack of paralysis, under which he gradually sank, and to which his death is to be attributed.

The deceased gentleman was in the 59th year of his age, and was the son of a hatter in Colchester. He came to London at a very early age in search of position and fortune, both of which he succeeded in attaining by the most honorable means. He entered the office of Mr. Daniel Whittle Harvey, the City Commissioner of Police, but then in practice as a solicitor, and while in Mr. Harvey's office, he became acquainted with a Mr. Dixon, since deceased, then an articled clerk, and the son of a licensed victualler. When Mr. Dixon commenced business upon his own account, Mr. Wire articled himself to him, and eventually, about thirty-five years ago, became his partner. The firm at that time conducted its business in St. Swithin's-lane, and rose to repute and influence chiefly through Mr. Dixon's connection with the body of licensed victuallers, with whom Mr. Wire also closely identified himself. Upon the death of Mr. Dixon, Mr. Wire conducted business for some time alone, until, being appointed as under-sheriff to Sir James Duke, he entered into a partnership with Mr. Child, whom he had known from boyhood, and which connexion subsisted until the period of Mr. Wire's death. Mr. Wire, from an early age, led a very active life in political, and also in civic matters. He was four times under-sheriff, and was sheriff four years ago. After receiving a requisition signed by almost every elector of the ward of Walbrook, in which he resided, he successfully competed for an aldermanic gown. He took a lively interest in the internal administration of Newgate, and suggested many important improvements in its discipline; and was also chairman of the committee under whose superintendance Holloway prison was built. He was exceedingly energetic in his professional and public functions, and watched zealously the reforms of the corporation, of whose rights he was a firm champion. Mr. Wire was in politics a Liberal, even at his outset in life, when fashion and interest were on the other side; he took an active part formerly in the elections for Colchester, when Mr. Harmer used to sit for that borough, and latterly in the elections for the City of London, in neither of which, nor in any of his public capacities, did he ever hold professional retainers. He sought a public and active life, however, in which he always conducted himself creditably, and with service to the cause which he espoused; and from his disinterestedness, and the absence from his mind of mercenary motives, he was enabled to gratify his desire of a prominent position before the public, to the satisfaction of his friends, and with the esteem of his opponents. He contributed extensively to the daily press in his youth, but did not indulge in recondite studies. Mr. Wire's assistance, both by suggestions and by liberal contributions, was of eminent use to Dr. Reed in the establishment of the Asylum for the Fatherless and for Idiots, as also with regard to the Royal Hospital for Incurables. The London University engaged a considerable share of Mr. Wire's attention; and he was also a supporter of the local institutions of Colchester. The chief event in his life was his mission as assistant to Sir Moses Montefiore, about twenty years ago, to Rome and Constantinople, on behalf of the Jews, who were accused, at least by rumour, of having murdered not only children, as was the usual gist of the charges against them, but also a priest named Father Tomazo. While the excitement consequent upon these rumours prevailed at Damascus, many Jews were massacred in that city during an insurrection of the people against them. The object of the mission of Sir Moses Montefiore was to have the Turkish authorities of Damascus, who had connived at the massacre, brought to punishment. This was summarily effected by order of the Turkish Government, the governor of Damascus being at once, at the moment of his arrest, beheaded on the spot, without trial or examination. Sir Moses Montefiore succeeded in obtaining satisfactory firmans from the sultan acquitting the Jews of all complicity in the alleged murders, and he likewise at Rome obtained the removal of a record containing an allegation of their having murdered Father Tomazo. Upon Mr. Wire's return to England, the Jews presented him with a piece of plate, as a testimonial for his valuable and effective service to their interests and character. In this, as in all his other non-professional acts, Mr. Wire acted from disinterested motives, prompted to such troublesome avocations by an active mind not entirely absorbed in business, and from an honourable desire of a public position and name. Mr. Wire was the fourth solicitor, we think, who has attained the dignity of chief magistrate within the last twenty years. Alderman Anthony Brown was the last solicitor, before Mr. Wire, who filled the office of Lord Mayor of London. Sir Thomas Wood, and Alderman Harmer, were likewise solicitors. Mr. Wire, during his year of office, was incapacitated by paralysis from discharging the duties of that station, greatly, doubtless, to the loss of the corporation, whose rights and internal administration received such able attention from him while in an unofficial position.

Mr. Wire contested the representation of Boston and of Greenwich, in which it is supposed that he expended a considerable sum of money. In the honorable career of Mr. Wire, the young solicitor may see a guide and model for his imitation. The son of humble but respectable parents comes to London, while yet in early youth, and, by his own unaided industry, gradually obtains the esteem and confidence of his clients and fellow-citizens, and finally fills the highest civic chair

Almost the only important act, of Alderman Wire during his year of mayoralty, in connection with his profession, was presiding at the dinner of the Metropolitan and Provincial Law Association, of which he was an active member, having been one of the committee of that body.

THE LATE GEORGE MEDD BUTT, ESQ., Q.C.

We regret to have to announce the death of Mr. George Medd Butt, Q.C., formerly M.P. for Weymouth, which event occurred at his residence in Eaton-square on Sunday last. The deceased gentleman was the son of Mr. John Butt, of Sherborne, and in early life practised for some years with great success as a special pleader. In 1830, being then thirty-three years of age, he was called to the bar by the Hon. Society of the Inner Temple, and went the Western Circuit, where he soon rose into reputation, and acquired an extensive practice. In 1845, during the Chancellorship of Lord Lyndhurst, Mr. Butt was made a Queen's Counsel, and shortly afterwards was elected a bencher of the Inner-Temple. In July, 1852, he was returned member for Weymouth. It was confidently expected that Mr. Butt would have been raised to the judicial bench during Lord Derby's tenure of office, but his chance never came. In private life and in the profession of which he was a member, Mr. Butt was held in high esteem.

There were 20,531 coroners' inquests held last year, at an expense of £60,920 16*s.* 6*d.*, being an average of £2 19*s.* 4*d.* each inquest in England and Wales.

M. Vatimesnil, the eminent French jurist, died on Tuesday, the 13th inst., after a long illness, at his country residence, near Paris.

Law Students' Journal.

QUESTIONS FOR THE EXAMINATION.

Michaelmas Term, 1860.

I. Preliminary.

1. Where, and with whom, did you serve your clerkship?

2. State the particular branch or branches of the law to which you have principally applied yourself during your clerkship.

3. Mention some of the principal law books which you have read and studied.

4. Have you attended any, and what, law lectures?

II. Common and Statute Law and Practice of the Courts.

5. A debtor being about to quit England, it is wished to hold him to bail. What proceedings must be taken?

6. If a person contracts a debt in England, and then goes to France and resides there, is there any, and what, remedy for the creditor?

7. How is an action of ejectment now commenced?

8. In what form must an affidavit be drawn?

9. Within what time must a plaintiff declare, and what are the consequences of his not doing so?

10. When a judgment has been recovered more than six years what steps must be taken to enforce it?

11. In what various ways can an award directing the payment of a sum of money be enforced?

12. If an attorney give an undertaking to appear for a defendant, and omit to do so, are there any, and what, means to compel him?

13. If a contract be made between agents for their respective undisclosed principals, who can sue and be sued; and does it make any difference whether the contract is or is not under seal?

14. What is a charterparty, and what is a bill of lading?

15. What steps are necessary to enable a holder of a bill of exchange to sue the acceptor and the drawer of the bill respectively?

16. Goods of A. B. are in the house of C. D., against whom there is a distress for rent of the house, and also a writ of *fieri facias*. Can the goods be taken and sold either under the distress or writ?

17. What steps are necessary to render a bill of sale available against creditors of the person who gives the bill of sale?

18. If a house and stables are let from year to year under one letting, can the landlord give a valid notice to quit the stables only?

19. When a creditor has a lien on goods or title deeds as a security for his debt, and such debt is afterwards barred by the Statute of Limitations, what becomes of the lien?

III. Conveyancing.

20. A. dies seised of estates of the tenure of Gavelkind, and of the tenure of borough English. He left three sons. To whom do the estates respectively descend?

21. What covenants and powers are usually inserted in a mortgage? Is there any, and if any, what, recent legislation on the subject?

22. What length of title is a purchaser of fee-simple estates entitled to require? Give a reason for your answer.

23. By what assurance may estates tail in copyholds be barred?

24. What powers are usually inserted in family settlements of real estate, and by whom, and under what authority, are they to be exercised?

25. A. takes a beneficial lease, and afterwards assigns it to a purchaser. Do he and his executors remain liable to the rents and covenants? and if they do, how may they be most effectually protected against them?

26. What are the ordinary duties and the usual course of proceeding of a solicitor acting for a purchaser of real estate, from the signing of the purchase contract to the completion of the purchase?

27. A. makes a mortgage to B. in fee, and then dies without heirs and intestate—who is entitled to the equity of redemption of the mortgaged estate?

28. A. contracts to sell his fee-simple estate, but dies before completion of the sale, having made his will giving the purchase-money to a charity. Is the gift good? Give a reason or authority for the answer.

29. Mortgagee in fee dies intestate. In whom do the estate and the mortgage-money respectively vest?

30. A. is seised of an advowson—the incumbent dies—then A. dies without having presented to the living. Who, on A.'s death, is entitled to present?

31. Devise to A. B. without words of limitation. What estate does A. B. take under the devise? Give the authority for your answer.

32. By what Act of Parliament was effect given to th creation of entails?

33. A. and B. are seised in fee of three estates, numbered 1, 2, 3. They hold the estate No. 1 as tenants in common; the estate No. 2 as joint tenants; the estate No. 3 as coparceners. Can A. and B., or either of them, by will devise their undivided shares in these three estates, or any, and if any, which, of them?

34. In whom would the legal estate vest under the four following conveyances of fee-simple estates, viz.:—

1. Feoffment to A. and his heirs, to the use of B. and his heirs.
2. Statutory release and grant to C. and his heirs, to the use of D. and his heirs.
3. Bargain and sale (enrolled) to E. and his heirs, for the use of F. and his heirs.
4. Appointment under a power to G. and his heirs, to the use of H. and his heirs.

IV. Equity and Practice of the Courts.

35. State in short detail the steps to be taken for the first amendment of a plaintiff's bill in chancery, after answer, and within what time must the amendment be made?

36. What steps should be taken to appeal from the certificate of a judge's chief clerk (approved by the judge) made under a decree?

37. A. desires to marry a female word of court—what steps must be taken to obtain the sanction of the court, and on what terms will it be granted?

38. How is an order of the Court of Chancery for payment of a sum of money to the plaintiff to be enforced against a defendant?

39. What are the proper steps to be taken to enforce against a defendant an order to deliver up possession of real estate?

40. In what cases will a court of equity relieve against breaches of covenant by a lessee?

41. State the different modes in which a plaintiff in equity can prove his case by witnesses with a view to a decree after bill filed and answers put in?

42. A married woman is entitled to money in the Court of Chancery, which she desires shall be paid to her husband—how is this to be done, and with what formalities?

43. Suppose the husband to be insolvent, and the wife wishes to have the fund appropriated to her own benefit, as far as may be—to what extent will the Court give effect to her wish?

44. Describe the different modes of commencing suits in equity, and to what class of cases each mode is more particularly applicable.

45. Within what time after service must a defendant appear to a bill in Chancery?

46. A. having sold his expectant interest in real estate and received the purchase money, afterwards files a bill to set aside the sale, on the ground of fraud, which he succeeds in proving, —on what terms will the Court grant him relief?

47. A patentee files his bill against one whom he charges with an infringement of his patent by the manufacture and sale of articles protected by the patent. What must he prove to support his case? and to what relief will he be entitled if he succeed?

48. Under what circumstances will an agreement to purchase real estate be enforced by the Court of Chancery where the agreement is not in writing?

49. In what cases can a court of equity award damages?

V.—Bankruptcy and Practice of the Courts.

50. Define the principle and object of the bankrupt law.

51. If a debtor, who is a trader, has not committed any act of bankruptcy, and a creditor is desirous of making him bankrupt, state the proceedings necessary to be taken by a creditor for that purpose, and the times allowed for the proceedings before the adjudication can be made.

52. Can a trader obtain an adjudication in bankruptcy against himself, and how can he do so?

53. Can there be an adjudication in bankruptcy against one, two, or three out of four or more partners in a trading firm?

54. Explain the rights of joint and separate creditors in respect of proofs of debts as against the joint estate of a bankrupt firm, and against the separate estates of the persons composing such firm.

55. Are there any, and what, classes of persons creditors of a bankrupt who are entitled to be paid in full?

56. Is it necessary, in order to support an adjudication in bankruptcy against partners, that an act of bankruptcy should be committed by each partner?

57. State the mode of making a joint stock trading company bankrupt, including all the details of the proceedings till adjudication.

58. What effect upon the bankrupt's proceedings has the death of a bankrupt after adjudication?

59. Under what circumstances might a bankruptcy be annulled? and give some instances.

60. What is the final court of appeal in bankruptcy?

61. What are the consequences to a bankrupt, if the Court refuse to grant him a certificate?

62. Is a bankrupt under any, and what, circumstances, after having obtained his certificate, liable to be sued on a promise to pay a debt, from which his certificate has discharged him?

63. What effect has a bankrupt's certificate upon the debts due by him jointly with other persons, with regard to the liabilities of such other persons?

64. Define the right of stoppage *in transitu*, and when may such right be exercised?

VI. Criminal Law, and Proceedings before Justices of the Peace.

65. Is there any, and what, limit to the time for preferring an indictment for a criminal offence?

66. What allegations in an indictment must be proved?

67. What is the rule as to joining several persons in one indictment?

68. Can a defendant be charged in the same indictment with different offences, either in the same count, or in different counts?

69. Is the finding of a coroner's inquest, in any, and what, respect, equivalent to the finding of a grand jury, and can the accused be tried on such inquisition?

70. If a man be indicted for stealing from the person, and it should appear from the evidence that force was used sufficient to constitute a robbery, what will be the consequence?

71. What is the law as to larceny by lodgers and the amount of property stolen for which a conviction may take place?

72. When goods are lost, and they are fond and taken possession of by a person who has reasonable grounds for believing that the owner may be discovered;—is this larceny?

73. Describe the offence of embezzlement, and the evidence necessary to support the charge.

74. Describe a nuisance, and state the evidence necessary to support the indictment?

75. What is the general rule as to the nature of the evidence to be adduced on a criminal trial?

76. What is the rule as to hearsay evidence, and are there any, and what, exceptions to such general rule?

77. State generally the usual nature of presumptive or circumstantial evidence, and its effect against the accused?

78. Before whom may an information be laid for an offence for which a summary conviction may be obtained?

79. What is the course of proceeding on an information being laid before a justice of the peace?

ADMISSION OF SOLICITORS.

Michaelmas Term, 1860.

The Master of the Rolls has appointed Monday, the 26th of November, 1860, at the Rolls Court, Chancery-lane, at four in the afternoon, for swearing solicitors.

Every person desirous of being sworn on the above day, must leave his Common Law Admission, or his Certificate of Practice for the current year, at the Secretary's Office, Rolls-yard, Chancery-lane, on or before Saturday, the 24th of November, 1860.

ADMISSION OF ATTORNEYS.

The following days have been appointed for the admission of attorneys in the Court of Queen's Bench:—

Saturday ..... Nov. 24 | Monday..... Nov. 26

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. Frederick Meadows White, on Common Law and Mercantile Law, Monday, Nov. 19.

Mr. Frederick John Turner, on Conveyancing, Friday, Nov. 23.

At the public examination of the students of the inns of court, held at Lincoln's-inn Hall, on the 30th and 31st of October and the 1st of November, 1860, the Council of Legal Education awarded to William Willis, Esq., a studentship of fifty guineas per annum, to continue for a period of three years; Robert Daniel, Esq., a certificate of honour of the first class; Andrew Thomson, Esq., Thomas Maguire, Esq., Joseph Burgin, Esq., Thomas Child Hayllar, Esq., Henry Colvile Marindin, Esq., Harry Tichbourne Davenport, Esq., Alfred Henry Say Stonhouse Vigor, Esq., Paul Panton, Esq., Walter Yeldham, Esq., William Henry Deverell, Esq., Edward U. Bullen, Esq., certificates that they have satisfactorily passed a public examination.

Court Papers.

Queen's Bench.

NEW CASES.—Michaelmas Term, 1860.

SPECIAL PAPER.

Sp. case.	Dollman, Executor, &c., *v.* Patching.
Dem.	Holmes *v.* Pemberton.
Sp. case.	The Irish Peat Company *v.* Phillips.
Dem.	Scott and Others *v.* Pilkington and Another.
"	Munroe and Others *v.* Pilkington and Another.

NEW TRIAL PAPER.

Middlesex.	Saward *v.* Walkden.
"	Mackley *v.* Pattenden.
London.	Lane and Others *v.* Tindal.
"	Paterson *v.* Harris.
"	Havill *v.* Hamber.
"	Tamvaco *v.* Lucas.
"	Somes and Others *v.* Ford and Another.
"	Laurie *v.* Parker.
"	Lane *v.* Seymour.
"	Pow *v.* Davis.
Essex.	Dickinson and Another *v.* Land.
"	Scott *v.* Sikes.
Sussex.	Stevens *v.* Austin.
"	Sinden and Others *v.* Banks.
Surrey.	Moody *v.* The London, Brighton, and South Coast Railway Company.
"	Ogle *v.* O'Flynn.
"	Goff *v.* The Great Northern Railway Company.
Leicester.	Packe *v.* Mee.
Derby.	Marples *v.* Hartley.
Oxford.	Gardner *v.* Harrapp.

Worcester.	Anderson *v.* The Midland Railway Company.
Gloucester.	Bennett *v.* White.
York.	The Queen *v.* Leatham.
"	The Queen *v.* The Inhabitants of South Crossland, &c.
"	The Queen *v.* Bradley.
"	The Queen *v.* Boyes.
"	Laverack *v.* Johnson.
Northumberland.	Gibson *v.* Chater.
Liverpool.	Mayer *v.* Spence and Another.
"	Mayer *v.* Firth and Others.
Glamorgan.	Jones *v.* Jones.
Chester.	The Stockport Waterworks Company *v.* Turner and Others.
Hants.	Pennell and Others *v.* Logan.
Wilts.	Scammell *v.* Glass.
Devon.	Snow *v.* The Bristol and Exeter Railway Company.

Common Pleas.

NEW CASE.—Michaelmas Term, 1860.

DEMURRER PAPER.

Case Nisi Prius.	Cahill *v.* The London and North Western Railway Company.

Exchequer of Pleas.

NEW CASES.—Michaelmas Term, 1860.

Appeal.	Trew and Another *v.* The Railway Passengers Assurance Company.

SPECIAL PAPER.

Dem.	Tapling and Another *v.* Seymour.
"	The Lancashire Wagon Company *v.* Fitzhugh.
Appeal under 20 & 21 Vict.	Read, Appellant; Storey, Respondent.
Dem.	Oxenham *v.* Smythe.
Sp. case by order of Crompton, J.	Blackburn *v.* Manders and Others.
Dem.	Rogers *v.* Hadley.
Sp. case by order of Martin, B.	Hutchinson *v.* Barrow.
Dem.	Hengh and Another *v.* Escombe and Another.
Sp. case by order of Channell, B.	Pennington and Others *v.* Cardale and Another.
"	Pye *v.* Bradbury.
Dem.	Tugelles and Another *v.* Smith.
"	Hengh and Another *v.* Escombe and Another.
County court app.	Gee and Others *v.* The Lancashire and Yorkshire Railway Company.
Appeal under 20 & 21 Vict. c. 43	Ellis, Appellant; Kelly, Respondent.
Sp. case under award.	Hamer *v.* Knowles and Others; Stroyan and Another *v.* Same.
Sp. case by order of Willes, J.	Swinfen *v.* Bacon; Swinfen *v.* Lewis.
County court app.	Horsford *v.* Smith.
Dem.	Kerrick *v.* Peto, Bart.

NEW TRIAL PAPER.

For Argument.

Middlesex.	Irwin *v.* Lever, M.P.
"	Toppin *v.* Bull.
"	Morgan *v.* Ravey and Another.
London.	The Anglo-Californian Gold Mining Company *v.* Lewis.
"	Parnell, Administrator, &c., *v.* Stock.
Bedford.	Hogge and Others *v.* Norris and Berrington.
York.	Dudgeon *v.* Owen.
"	Bower and Another *v.* Hinchliffe.
Durham.	Cowley and Wife *v.* The Mayor, &c., of Sunderland.
Newcastle-on-Tyne.	Wilson *v.* The North Eastern Railway Company.
Liverpool.	Horridge *v.* Bell and Another.
"	Pott and Another, Assignees, &c., *v.* Lomas.
"	Bradley *v.* Dunipace.
"	Irlam *v.* Dunn and Another.
"	Hernaman and Others *v.* Wilson.
"	Holmes *v.* Clark.
Exeter.	Pring and Another *v.* Pring and Another (Ejectment).
Wells.	Burridge *v.* Nicholetts.
Chelmsford.	Richards *v.* Leigh.
Maidstone.	Hole *v.* The Sittingbourne and Sheerness Railway Company.
Guildford.	Hutton *v.* Hamlin.
Nottingham.	Smith and Ux., Executrix, &c., *v.* Wilson.
Stafford.	Busst *v.* Gibbons.
"	Taylor *v.* Meeson.
Gloucester.	Rogers *v.* Hadley and Another.

Exchequer Chamber.

SITTINGS IN ERROR.

The following days have been appointed for the argument of Errors and Appeals:—

Queen's Bench.

Tuesday ... Nov. 27 | Wednesday ... Nov. 28

Common Pleas.

Thursday ... Nov. 29 | Friday ..... Nov. 30

Exchequer of Pleas.

Saturday ..... Dec. 1 | Monday ..... Dec. 3.

Selling Beer at Fairs and Races.—Messrs. J. and S. Langham, solicitors, of Hastings, in a letter which appeared in the *Times* of the 10th instant, called the attention of licensed victuallers and others, who have been accustomed to set up booths at fairs and races, for the purpose of retailing beer, to the recent statute, 23 & 24 Vict. c. 113, s. 37, which they considered rendered retailing beer at any other place than at the house and premises specified in the license, an offence against the inland revenue laws, and would subject the offender to a penalty of £20 for each offence. In reply to this letter, Mr. G. C. Oke, the assistant clerk to the Lord Mayor, and the able and learned author of the "Magisterial Synopsis," and other works, in a communication, which appeared in the same journal on the 12th instant, states that the persons alluded to have no fear of a prosecution by the inland revenue board, and refers to an extract from a recent communication of the board to the clerk to the magistrates at Carmarthen on the subject. The following is a copy of the extract referred to:—"The board are advised that it was not intended by the 37th section of the 23 & 24 Vict. c. 113, to repeal the privilege, expressly granted by former Acts, of selling beer without licence at legally constituted fairs and races, and that such privilege and exemption still exist."

It is fortunate for our county court judges that they do not live in Texas. We read in the *Navarro* (Texas) *Express*, the following paragraph: "On Thursday morning, the 2nd instant, four respectable citizens of this county, all members of the county court, were found hung in the public square of this town. Various are the conjectures as to the causes of this unfortunate affair. We presume, however, that it was owing to the fact that they were members of the county court. In saying this we must here enter our declaration that we know of no conduct of theirs which deserved such a severe penalty. It is thought the presence of the Chief Justice could have saved them from such a fate. As we shall hereafter speak more of this matter, we withhold comment until we are in possession of all the facts connected with this melancholy affair." We are no longer surprised at the commonness of the phrase—"To h—ll or Texas."

Acts of Parliament.—The number of public general acts that passed in the late session, which commenced on the 24th of January, and ended on the 28th of August, was 155, and the local acts 202; total, 357.

Births, Marriages, and Deaths.

BIRTHS.

AYRTON—On Nov. 14, the wife of Alfred Ayrton, Esq., of Doctor's-commons, of a daughter.

BENNETT—On Nov. 10, the wife of J. C. G. Bennett, Esq., of a son.

CHILD—On Nov. 8, the wife of Henry Child, Esq., Solicitor, of a daughter.

FISHER—On Nov. 11, the wife of William Richard Fisher, Esq., Barrister-at-Law, of a son.

MACNAGHTEN—On Nov. 14, the wife of Edward Macnaghten, Esq. of a daughter.

SMITH—On Nov. 8, the wife of Edward Hart Smith, Esq., of Clement's-inn, Solicitor, of a son.

SULLIVAN—On Nov. 11, at Dublin, the wife of William Sullivan, Esq., Solicitor, of a son.

WILKINSON—On Nov. 10, the wife of Walter M. Wilkinson, Esq., of Kingston-on-Thames, Solicitor, of a son.

WINTERBOTHAM—On Nov. 8, the wife of Lindsey W. Winterbotham, Esq., Solicitor, Stroud, of a son.

MARRIAGES.

FIRTH—BRANSON—On Nov. 7, Charles Henry Firth, Esq., to Adelaide, youngest daughter of Thomas Branson, Esq., Solicitor, of Sheffield.

HERBERT—RIGBY—On Sept. 13, at Murree, Charles Edward Herbert, Esq., son of the late Charles Herbert, Esq., of the Middle Temple, Barrister-at-Law, First Fiscal of British Guiana, to Elizabeth, daughter of Colonel Rigby, Her Majesty's Bengal Engineers.

INMAN—HAYGARTH, INMAN—BLADES—On Nov. 3, Robert Inman, Esq., Solicitor, to Isabella, daughter of the late James Haygarth, Esq., both of Garsdale, Sedbergh, Yorkshire.—Also, at the same time, Wm. Inman, Esq., to Agnes, third daughter of the late John Blades, Esq., both of Garsdale.

SCOTT—GRAY—On Nov. 10, William Duncan, second son of the late William Scott, Esq., of Great Tower-street, to Maria, daughter of John Gray, Esq., of the Temple.

DEATHS.

LUSHINGTON—On Sept. 25, at Pooree, Stephen, the third son of Right Hon. Dr. Lushington, aged 30.

POWLES—On Nov. 12, at Leasbrook, near Monmouth, aged 32, Mary Anne, wife of J. Endell Powles, Esq., Solicitor.

WIRE—On Nov. 9, at Lewisham, from an attack of paralysis, in his 59th year, Mr. Alderman Wire, late Lord Mayor of London.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BIRKETT, Rev. WILLIAM, Clerk, Great Hursley, Oxford, & JONATHAN PEEL, Merchant, Friday-street, £1,431 : 4 : 6, 3 per Cents.—Claimed by WILLIAM BIRKETT.

DAWNAY, Rev. THOMAS, Ashwell, Rutlandshire, £16,360 15s. 6d. Reduced 3 per Cents., and £10,460 16s. 9d., £3 5s. per Cents.—Claimed by Hon. PAYAN DAWNAY, the surviving executor.

GATTY, GEORGE, Esq., Crowhurst-place, Sussex, and GEORGE HOPER, Esq., East Grinstead, Sussex, £176 18s. 3d. Consols.—Claimed by GEORGE GATTY, the survivor.

LINGARD, ELLEN SOPHIA CHARLOTTE, Widow, Gutter-lane, Cheapside, £200 Consols.—Claimed by ELLEN SOPHIA CHARLOTTE LINGARD.

PAUL, SAMUEL PAUL, Vicar, JOHN WILLIAM BIEDERMANN, & JOHN ALLAWAY, all of Tedbury, Gloucestershire, £105 3 per Cents.—Claimed by ROBERT ALLAWAY.

RIVERS, WILLIAM, & JOSEPH ALLEN, Esqs., both of Greenwich Hospital, £41 : 7 : 7 3 per Cent. Consols.—Claimed by JOSEPH ALLEN.

TIJOU, ELIZABETH, Widow, Brixton-place, Surrey, £250 Reduced 3 per Cents.—Claimed by ELIZABETH TIJOU.

Heirs at Law and Next of Kin.

Advertised for in the London Gazettes and elsewhere.

CAIN, OLIVIA, formerly Olivia Burke, daughter of John H. Burke, of Drumsna in the county of Leitrim, afterwards the wife of James Cain, formerly of Drumshambo in the county of Leitrim (afterwards of the city of Dublin, and then afterwards residing in the neighbourhood of Manchester.) Next of kin to apply to W. R. Buchanan, Esq., Solicitor, 13, Basinghall-street, London.

LEONARD, JOHN, late of No. 20, Lower King-street, Southsea, in the county of Southampton, Quartermaster-Serjeant of the 47th Regiment of Foot, (who died on or about the 27th day of August, 1860). Next of kin to apply to the Solicitor to the Treasury, Whitehall.

MORRIS, JANE, who was many years ago housekeeper to a gentleman, and afterwards kept the Blue Anchor Tavern, in Coleman-street, City, is Entitled to a Legacy. Apply to Messrs. Greville & Tucker, Solicitors, 98, St. Swithin's-lane, City.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

	English Funds.			Railways—*Continued.*	
			Shrs.		
	Bank Stock	235½	Stock	Ditto A. Stock	115
	3 per Cent. Red. Ann..	91	Stock	Ditto B. Stock	134
	3 per Cent. Cons. Ann.	93¼	Stock	Great Western	72½
	New 3 per Cent. Ann..	91½	Stock	Lancash. & Yorkshire	116½
	New 2½ per Cent. Ann.	..	Stock	London and Blackwall.	61½
	Consols for account ..	93⅜	Stock	Lon. Brighton & S. Coast	114
	India Debentures, 1858.	96½	25	Lon. Chatham & Dover	52
	Ditto 1859.	..	Stock	London and N.-Wstrn..	99¾
	India Stock	..	Stock	London & S.-Western.	94
	India 5 per Cent. 1859..	103½	Stock	Man. Sheff. & Lincoln..	46½
	India Bonds (£1000) ..	..	Stock	Midland	131½
	Do. (under £1000).....	10 dis.	Stock	Ditto Birm. & Derby	108
	Exch. Bills (£1000)...	..	Stock	Norfolk.....	86
	Ditto (£500)....	3	Stock	North British	69½
	Ditto (Small) ..	..	Stock	North-Eastn. (Brwck.)	101½
			Stock	Ditto Leeds	57½
			Stock	Ditto York	88
	Railway Stock.		Stock	North London.....	104
Shrs.			Stock	Oxford, Worcester, & Wolverhampton ..	..
Stock	Birk. Lan. & Ch. Junc.	80			
Stock	Bristol and Exeter	96	Stock	Shropshire Union	51
Stock	Cornwall	62	Stock	South Devon	43
Stock	East Anglian	17⅝	Stock	South-Eastern	84
Stock	Eastern Counties	51½	Stock	South Wales	67
Stock	Eastern Union A. Stock	40	Stock	S. Yorkshire & R. Dun	79
Stock	Ditto B. Stock	29	25	Stockton & Darlington	41
Stock	Great Northern	111½	Stock	Vale of Neath	70

London Gazettes.

Windings-up of Joint Stock Companies.

UNLIMITED, IN CHANCERY.

TUESDAY, Nov. 13, 1860.

HERALD LIFE ASSURANCE SOCIETY.—The Master of the Rolls will proceed on Friday, Nov. 23, at 2, to settle the list of contributories of this company.

MITRE GENERAL LIFE ASSURANCE, ANNUITY, AND FAMILY ENDOWMENT ASSOCIATION.—The Master of the Rolls, on Nov. 9, appointed Robert Palmer Harding, 5, Serle-street, Lincoln's-inn, Interim Manager of this company.

FRIDAY, Nov. 16, 1860.

UNLIMITED IN CHANCERY.

MITRE GENERAL LIFE ASSURANCE, ANNUITY, AND FAMILY ENDOWMENT ASSOCIATION.—The M.R. will on Dec. 5, at 12, appoint an official manager or official managers of this Company.

LIMITED IN BANKRUPTCY.

NORTON DISTRICT UNION CORN MILL COMPANY, LIMITED.—Creditors to prove their claims on Nov. 30, at 11; Leeds. Com. West.

Professional Partnership Dissolved.

FRIDAY, Nov. 16, 1860.

SMART, HENRY, & JOHN CHARLES TOMPKINS, Solicitors, 18, York-place. Portman-square, Middlesex, and Worthing, Sussex. Nov. 12, by mutual consent.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Nov. 13, 1860.

BARCLAY, ROBERT CAMPBELL, Major in the 68th Regiment of Bengal Native Infantry, Kurrantad Loe Buxor Clarke & Morrice, Solicitors, 29, Coleman-street, London. Jan. 31.

BEVAN, HENRY AUGUSTUS, Merchant, 9, John-street, America-square, London. Atkins, Andrew Atkins, & Irvine, Solicitors, 5, White Hart-court, Lombard-street, London. Dec. 31.

BRADSHAW, JAMES, High Constable of the Holborn Division of the Hundred of Ossulston, 7, Lewis-street, Victoria-road, Kentish-town, Middlesex. Ingle & Gooddy, Solicitors, 37, King William-street, London. Dec. 31.

HICKSON, THOMAS, Gent., Lincoln. Moore, Solicitor, Lincoln. April 5.

HUTCHINSON, THOMAS, Gent., Brotton, Yorkshire. Weatherill, Solicitor, Gainsborough. Jan. 5.

JOHNSON, JOHN, Joiner & Cartwright, Sowerby, near Thirsk, Yorkshire. Richardson, Solicitor, Thirsk, Yorkshire. Jan. 1.

KING, JAMES, Colliery Bailiff, Bilson-green, East Dean, Gloucestershire. Carter & Goold, Solicitors, Newnham, Gloucestershire. Dec. 10.

THORP, HENRY, Farmer, Knotting Grange, Bedfordshire. Margetts, Solicitor, Huntingdon. Dec. 31.

FRIDAY, Nov. 16, 1860.

BOYCE, JOHN, Gent., High Church-street, otherwise London-street, Whittlesey, Isle of Ely. Smith, Solicitor, Whittlesey. Dec. 31.

CAMMILLERI, JOSEPH, a Captain in her Majesty's Royal Navy, 12, Medina-villas, Clifton Ville, Brighton. Robinson & Hine Haycock, Solicitors, 32, Charter-house-square, Middlesex. Dec. 27.

CANN, WILLIAM, Carpenter, 1, Oak Cottage, Waddington-road, Stratford, Essex. Brightwell & Son, Solicitors, Surrey-street, Norwich. Jan. 15.

CORMACK, ELEANOR, Widow, 1, Arundel-terrace, Barnsbury-road, Islington, Middlesex. Broughton, Solicitor, 48, Finsbury-square. Dec. 31.

FOX, WILLIAM HENRY, Engineer, formerly of 56, Compton-street, Clerkenwell, Middlesex, afterwards of 1, Forest-row, Kingsland, Middlesex. Walters & Son, Solicitors, 36, Basinghall-street, London. Dec. 26.

FROST, HENRY, Esq., Drayton-grove, Brompton, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, E.C. Dec. 15.

IVE, WILLIAM JAMES, Gent., 4, Park-villas, Crouch End, Hornsey, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, London. Jan. 1.

JAQUES, JAMES, Farmer, Sweet Knowle, Preston-on-Stour, Gloucestershire. Hancock & Hiron, Solicitors, Shipston-on-Stour, Worcestershire. Jan. 1.

POWELL, RICHARD, Surgeon, Bath-street, Bristol. Abbott, Lucas, & Leonard, Solicitors, Albion-chambers, Bristol. Jan. 15.

RAIT, WILLIAM, Hosier & Printer, Manor-place, Upper Holloway, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, London. Jan. 1.

ROWLAND, BRIERLEY, Esq., formerly of Oldham, Lancaster, but late of Highfield House, Altrincham, Chester. Bower, Son, & Cotton, Solicitors, 46, Chancery-lane. Feb. 1.

SKINNER, JOHN, Farmer, Sheepshead, Leicestershire. Morley, Solicitor, Thurland-street, Nottingham. Dec. 12.

WHITEHURST, MARY, 7, Portsdown-road, Maida hill, Paddington, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, London (within two calendar months).

WILLATS, BENJAMIN, Chemist & Druggist, Fore-street, London. Robinson & Haycock, Solicitors, 32, Charterhouse-square, Middlesex. Dec. 5.

WILLIAMS, ELIZABETH MARY, Widow, 9, Norfolk Villas, Westbourne-grove, Middlesex. Parker & Lee, Solicitors, Saint Paul's Church-yard, London. Dec. 16.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Nov. 13, 1860.

BLYTH, JOHN, Esq., Limehouse and St. John's-terrace, Regent's-park Middlesex. Blyth *v.* Fleming, M. R. Dec. 10.

DODS, GEORGE DOUGLAS, Surgeon in her Majesty's 71st Regiment of Foot, late of Woolwich, Kent, and afterwards of Charles-street, Chelsea, Middlesex, and formerly of Glasgow. Hutcheson *v.* Dods, V. C. Kindersley. Dec. 8.

GARDNER, JOSEPH GOODWIN, Carcase Butcher, Farmer, & Grazier, Aldgate High-street, London. Gardner *v.* Bullas, M. R. Dec. 13.

HALL, LEWIS, Plumber, 16, John-street, Limehouse, Middlesex. Heiser *v.* Streeter, V. C. Wood. Dec. 4.

HAND, PETER, Farmer, Burwell, Lincolnshire. Hand *v.* North, V. C. Kindersley. Dec. 1.

HARRIS, CHARLES, Pianoforte Maker, late of Pratt-street, Lambeth, Surrey, and formerly of New-street, Vincent-square, Westminster. Harris *v.* Harris, V. C. Kindersley. Dec. 10.

JONES, JOHN, Clerk, Little Marcle, Herefordshire. Jones *v.* Jones, V. C. Stuart. Dec. 6.

MOORE, JOHN, Provision Dealer, Chorley, Chester. Moore *v.* Moore, V. C. Wood. Dec. 5.

TONG, SARAH, Spinster, North Leyerton, Nottinghamshire. Nicholson *v.* Tong, M. R. Dec. 3.

WINN, THOMAS, Esq., Lincoln. Nicholson *v.* Carline, V. C. Wood. Dec. 10.

YARD, LEVI, Beer Retailer, Five Bells-lane, Rochester, Kent. Wilson *v.* Richman, M. R. Dec. 5.

FRIDAY, Nov. 16, 1860.

ENTWISTLE, WILLIAM, jun., a Cornet in her Majesty's 2nd Regiment of Life Guards, Knightsbridge Barracks, Middlesex. Cutler *v.* Entwistle, V. C. Stuart. Dec. 15.

FIGG, WILLIAM, Livery Stable Keeper, Oxford. Wheeler *v.* Wadlow, V. C. Kindersley. Jan. 5.

KIRK, JOHN, Land Steward, Brecon, Brecknockshire. Kirk & Another *v.* Sellars, M.R. Dec. 14.

MICKLETHWAIT, WILLIAM, Gent., Madeira Cottage, Shanklin, Isle of Wight. Birks *v.* Micklethwait & Others, M.R. Dec. 1.

PEPPIN, JANE, Spinster, 25, Devonshire-street, Queen-square, Middlesex. Grayson *v.* Peppin, M.R. Dec. 3.

Assignments for Benefit of Creditors.

TUESDAY, Nov. 13, 1860.

CHANDLER, JOHN CULL, Linen Draper, Canterbury. Oct. 29. *Sols.* Sankey & Son, Canterbury.

COX, FRANCIS, Cheesemonger, 7, Lower-road, Islington, Middlesex. Nov. 1. *Sol.* Randell, 17, Gracechurch-street, London.

MURRELL, GIBBS HOWES, Farmer, & Brick & Tile Manufacturer, Surlingham, Norfolk. Oct. 22. *Sols.* Keith, Blake, & Keith, the Chantry, Norwich.

RAWLINSON, JAMES, Burnley, Lancaster, CALEB LANCASTER, Colne, Lancaster, & JOSHUA LANCASTER, Burnley, Lancaster, Cotton Spinners (Lancaster & Company). Oct. 17. *Sol.* Holmes, Burnley.

THOMPSON, ROBERT, Butcher, Newcastle-upon-Tyne. Oct. 29. *Sols.* Hodge & Harle, Wellington-place, Pilgrim-street, Newcastle-upon-Tyne.

YEOMANS, GEORGE, Builder, Burton-upon-Trent, Staffordshire. Nov. 7. *Sol.* Goodger, Burton-upon-Trent.

FRIDAY, Nov. 16, 1860.

ARMSTRONG, WILLIAM JAMES, WILLIAM FRANCIS, & JAMES HOOPER, Tanners, Spa-road, Bermondsey, Surrey. Oct. 20. *Sol.* M. Abrahams, 17, Gresham-street, London.

CARTER, BENJAMIN JOSEPH, Shipwright, Ship Chandler, & Grocer, Broad-street, Portsmouth. Oct. 31. *Sol.* Stening, 18, Chapel-row, Portsea.

COLEMAN, JOHN, Tailor, Broughton, Northamptonshire. Nov. 12. *Sols.* Murphy & Sharman, Wellingborough.

CREASSER, EDWIN, Chemist & Druggist, Great Driffield, York, Nov. 7 *Sols.* Conyers & Jennings, Driffield.

FAYRAM, AMOS, Accountant, Rotheram, York. Oct. 29. *Sols.* Hoyle & Son, Rotheram.

HARKER, JOHN, Farmer, Malms Farm, Masham, York. Nov. 6. *Sol.* Teale, Leyburn.

PHILLY, JAMES, General Grocer, Worthing, Sussex. Nov. 3. *Sols.* R. & G. Holmes, Arundel.

ROBERTSON, ROBERT, Farmer, Eglingham, Northumberland. Nov. 14. *Sol.* Wilson & Middlemas, Alnwick.

STEELE, ALEXANDER, Canvass & Sacking Factor, Great Saint Helens, London. Oct. 17. *Sols.* Wilkinson, Stevens, & Co., 4, Nicholas-lane, Lombard-street, London.

WOODS, JAMES, Boarding-house Keeper, Warrington, Lancashire. *Sols.* Shepherd & Moore, Warrington.

Bankrupts.

TUESDAY, Nov. 13, 1860.

BIGGS, HENRY, Grocer & Straw Plait Merchant, Markyate-street, Hertford. *Com.* Fane: Nov. 23, and Dec. 27, at 11.30; Basinghall-street. *Off. Ass.* Cannan. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook. *Pet.* Aug. 11.

FOTHERGILL, MARK, Chemical Manure Merchant, 201, Upper Thames-street, London. *Com.* Holroyd: Nov. 27, at 12.30; and Dec. 18, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Chidley, 10, Basinghall-street; or Mayhew, 11, Argyll-place. *Pet.* Nov. 6.

JOHNSON, JOHN, RICHARD CLARKSON, & FREDERICK FURNESS, Tailors & Woollen Drapers, Ashton-under-Lyne, Lancashire (Johnson, Clarkson, & Co.) *Com.* Jemmett: Nov. 30, and Dec. 20, at 12; Manchester. *Off. Ass.* Hernaman. *Sol.* Toy, Ashton-under-Lyne. *Pet.* Nov. 8.

HICKS, THOMAS JOHN, Russia Mat, Rope & Twine Merchant, 49A, Worship-street, Finsbury-square, Middlesex. *Com.* Evans: Nov. 22, at 12; and Dec. 27, at 1; Basinghall-street. *Off. Ass.* Bell. *Sol.* Sorrell, 19, Mark-lane. *Pet.* Nov. 9.

NIXON, THOMAS, Boot & Shoe Maker, Stoke-upon-Trent, Staffordshire. *Com.* Sanders: Nov. 29, and Dec. 21, at 11; Birmingham. *Off. Ass.* Kinnear. *Sol.* Smith, Birmingham. *Pet.* Nov. 12.

RITCHIE, GEORGE, Grocer, Newcastle-upon-Tyne. *Com.* Ellison: Nov. 20, at 12; and Dec. 19, at 11.30; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Mathews, Carter, & Bell, 102, Leadenhall-street, London; or Hoyle, Newcastle-upon-Tyne. *Pet.* Nov. 6.

ROBINSON, EDWARD, Woollen Manufacturer & Merchant, Sheepridge, Huddersfield. *Com.* West: Nov. 23, and Dec. 21, at 11; Leeds. *Off. Ass.* Young. *Sols.* Bond & Barwick, Leeds. *Pet.* Nov. 7.

TWEEDIE, WILLIAM, Oil & Colour Man, Liverpool. *Com.* Perry: Nov. 22, at 12; and Dec. 14, at 11; Liverpool. *Off. Ass.* Cazenove. *Sols.* Gregory & Gregory, York-buildings, Dale-street, Liverpool. *Pet.* Nov. 6.

WILLIAMS, THOMAS, Printer & Publisher, Newport, Monmouthshire. *Com.* Hill: Nov. 26, and Dec. 31, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Blakey, Newport; or Bevan, Girling, & Press, Bristol. *Pet.* Nov. 12.

FRIDAY, Nov. 16, 1860.

BLOFIELD, THOMAS WILLIAM, Builder, 34, Leather-lane, Holborn, Middlesex, and Lesness Heath, Kent. *Com.* Evans: Nov. 27, at 12; and Dec. 27, at 2; Basinghall-street. *Off. Ass.* Bell. *Sols.* Pocock & Poole, Bartholomew-close. *Pet.* Nov. 13.

BROWNE, NEVILLE, Hotel Keeper (Peele's Coffee House, Fleet-street, London). *Com.* Goulburn: Nov. 26, at 2; and Dec. 24, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Linklater & Hackwood, 7, Walbrook, London. *Pet.* Nov. 7.

CHACE, GEORGE HENRY, Boot & Shoe Maker, 142, Oxford-street, Middlesex. *Com.* Holroyd: Nov. 27, at 3; and Dec. 22, at 12; Basinghall-street. *Off Ass.* Edwards. *Sols.* Allen & Son, 17, Carlisle-street, Soho-square, London. *Pet.* Nov. 12.

COLEMAN, CHARLES, Seed & Flour Merchant, Halgavor Mills, near Bodmin, Cornwall. *Com.* Andrews: Nov. 26, and Dec. 21, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Commins, Bodmin, or Turner & Hirtzel, Exeter. *Pet.* Nov. 8.

COLLS, JAMES, Coal Merchant, Commission and Insurance Agent, Thrapston and Denford, Northamptonshire. *Com.* Goulburn: Nov. 28, at 2; and Dec. 24, at 1: Basinghall-street. *Off. Ass.* Pennell. *Sols.* Tooke & Holland, 39, Bedford-row, London, for William Tennant, Thrapston. *Pet.* Nov. 15.

CUDBY, CHARLES JAMES, Grocer & Cheesemonger, 39, Goldington-street, Saint Pancras, Middlesex. *Com.* Fonblanque: Nov. 28, at 11.30; and Dec. 28, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Kays, 3, New-inn, Strand, London. *Pet.* Nov. 13.

FENTON, THOMAS JOSHUA, Wine Merchant, 46, Lime-street, London, and 24, Saint Mary-le-Strand-place, Old Kent-road, Surrey. *Com.* Evans: Nov. 27, at 12.30; and Dec. 28, at 11; Basinghall-street. *Off. Ass.* Bell. *Sol.* Stopher, 36, Coleman-street. *Pet.* Nov. 15.

HADFIELD, WILLIAM, Marble Merchant & Commission Agent, 10, Earl-street, and 45, Milbank-street, Westminster. *Com.* Holroyd: Nov. 30, and Jan. 1, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Mayhew & Salmon, 30, Great George-street, Westminster. *Pet.* Nov. 15.

HALL, JOHN PARKER, Broker & Commission Agent, Liverpool, Lancashire. *Com.* Perry: Nov. 30, and Dec. 17, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Harris, Liverpool. *Pet.* Nov. 14.

JONES, BENJAMIN, Painter & Paper Hanger, St. John-street, Cardiff, Glamorganshire. *Com.* Hill: Nov. 27, and Dec. 31, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Thomas, Neath, or Abbott, Lucas, & Leonard, Bristol. *Pet.* Nov. 6.

MURRELL, THOMAS ROBERT, Farmer & Brickmaker, Hedenham, Norfolk. *Com.* Fonblanque: Dec. 4, at 11.30, and 28, at 11; Basinghall-street. *Off. Ass.* Graham. *Sols.* Ashurst, Son, Morris, 6, Old Jewry, London. *Pet.* Oct. 31.

PHILLIPS, JAMES, Chemist, Druggist, & Seedsman, Church Stretton, Salop. *Com.* Sanders: Nov. 29, and Dec. 21, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham, or C. Davies, Shrewsbury. *Pet.* Nov. 10.

ROBINSON, GEORGE, & ROBERT WITT, Licensed Victuallers, Five Bells Public-house, Bermondsey-square, Bermondsey. *Com.* Evans: Nov. 27, at 11.30, & Dec. 27, at 11: Basinghall-street. *Off. Ass.* Johnson. *Sols.* Walter & Moojen, 8, Southampton-street, Bloomsbury-square. *Pet.* Nov. 15.

ROBINSON, GEORGE, Hotel Keeper, Lincoln. *Com.* Ayrton: Nov. 28 & Dec. 19, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Hebb, Lincoln. *Pet.* Nov. 14.

SALT, JAMES JONES, Glass Dealer & Patent Coffin Manufacturer, Birmingham. *Com.* Sanders: Nov. 26 & Dec. 17, at 11; Birmingham *Off. Ass.* Kinnear. *Sol.* Smith, Birmingham. *Pet.* Oct. 31.

SKEVINGTON, EDWARD, & JAMES JOHN CLUTTERBUCK, Leather Dressers 15 & 16, Russell-street, Bermondsey, Surrey. *Com.* Fonblanque: Nov. 28, at 2.30, & Dec. 28, at 12.30; Basinghall-street. *Off. Ass.* Graham. *Sol.* Bennett, 181, Tooley-street, Southwark. *Pet.* Nov. 12.

STEWART, ROBERT, Draper, Wells, Somersetshire. *Com.* Hill: Nov. 27, and Dec. 21, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Girling, & Press, Bristol. *Pet.* Nov. 14.

TODD, JOHN, Cheesemonger & Butterman, Pleasant-place, Holloway. *Com.* Goulburn: Nov. 26, at 1.30, & Dec. 24, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Pocock & Poole, 58, Bartholomew-close, London. *Pet.* Nov. 14.

WARD, ROBERT CLAKE, Linen Draper, Queen's-terrace, Marlborough-road, Chelsea, Middlesex. *Com.* Fonblanque: Nov. 28, at 12.30, & Dec. 28, at 1; Basinghall-street. *Off. Ass.* Graham. *Sols.* Lawrance, Smith, & Pawdon, 12, Bread-street, London. *Pet.* Nov. 14.

WILSON, JOHN BLACKWOOD, Draper & Hawker, 22, John-street, Pentonstreet, Pentonville, Middlesex. *Com.* Fane: Nov. 30, at 12.30, & Dec. 27; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Cattlin, 22, Ely-place, Holborn. *Pet.* Nov. 14.

BANKRUPTCIES ANNULLED.

FRIDAY, Nov. 16, 1860.

STRAIGHTBERG, THEODORE, Walnut & Fancy Wood Merchant, 21, Wilson-street, Middlesex. Nov. 6.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Nov. 13, 1860.

DICKINS, WILLIAM, Shoe Manufacturer, Daventry, Northamptonshire. Dec. 5, at 2; Basinghall-street.—GINGOLD, MORRITZ, Merchant, Manchester. Dec. 5, at 12; Manchester.—HASSELL, JAMES, Soap and Candle Manufacturer, Bristol. Dec. 6, at 11; Bristol.—LATTIMORE, JOSHUA, Timber Merchant, Sandridge, St. Albans, Hertfordshire, Dec. 6, at 11; Basinghall-street.—LESLIE, ROBERT, Merchant, 19, Abchurch-lane (Cheape & Leslie). Dec. 7, at 12.30; Basinghall-street.—LOWE, JOHN, Merchant & Commission Agent, Manchester. Dec. 4, at 12; Manchester.—MASON, EDWARD, Commission Agent, 67, Piccadilly, Manchester. Dec. 5, at 12: Manchester.—SHARP, JOSEPH, Cattle Dealer, Metheringham, Lincolnshire. Dec. 6, at 11.30; Nottingham.—SHERRY, JAMES, Boot & Shoe Maker, Portsea, Southampton. Dec. 8, at 11; Basinghall-street.—WHITAKER, JOHN, Cotton Manufacturer, Bridge End, Newchurch, Rossendale, Lancashire. Dec. 4, at 12; Manchester.

FRIDAY, Nov. 16, 1860.

BURGON, JOHN TOWRY, Wholesale Hardwareman & Gun Flint Manufacturer, 35, Bucklersbury. Nov. 28, at 1.30; Basinghall-street.—FOXCROFT, WILLIAM, & GEORGE WELLOCK, Cotton Spinners, Heckmondwike, York. Dec. 7, at 11; Leeds.—GAWTHORPE, JOSEPH, Cloth Miller, Horbury Bridge, Wakefield. December 7, at 11; Leeds.—MARTIN, JAMES, Licensed Victualler, King's-head Inn, High-street, Borough, Surrey, & Fruit Salesman, Borough-market, Surrey. Dec. 11, at 11; Basinghall-street.—PENNY, ALFRED, 2, Richmond-villas, Holloway, Middlesex, late of Wharf-road, City-road, Coal Merchant, and of Lloyd's Coffee-house, London, Underwriter. Dec. 11, at 1; Basinghall-street.—REDDALL, FREDERICK, Merchant, 1, Philpot-lane, Nov. 28, at 12; Basinghall-street.—RIMINTONF HENRY, Wholesale Stationer, 5, Queen-street, Cheapside. Dec. 10, at 11; Basinghall-street TURNER, JOHN, Grocer, Halifax. Yorkshire. Dec. 7, at 11; Leeds.—LAURENCE, THOMAS, & WILLIAM MORTIMORE, Leather & Hide Factors, St. Mary Axe, London. Dec. 14, at 11; Basinghall-street. Joint estate of all the bankrupts. Same time, joint estate of Thomas Laurence and William Mortimore, and separate estate of Thomas Lawrence, and separate estate of Francis Benjamin Schrader.—WILSON, BENJAMIN, Money Scrivener, Bill Broker, & Discount Agent, 16, Gresham-street, London. Dec. 11, at 1; Basinghall-street.—YOUNG, THOMAS, Tea and Coffee Dealer, 8, Temple-court, Liverpool. Dec. 10, at 12; Liverpool.

We cannot notice any communication unless accompanied by the name and address of the writer

****Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

ERRATUM.—*The name of Mr. Thomas Crawhall Alcock, solicitor, Sunderland, was erroneously inserted in the list of solicitors who had been elected mayors of municipal boroughs which appeared in our Journal last week.*

THE SOLICITORS' JOURNAL.

LONDON, NOVEMBER 24, 1860.

CURRENT TOPICS.

All the courts of equity will rise on Monday next, the last day of term. They will sit again on Tuesday, the 4th day of December, which is fixed as the first seal day after term. About the usual amount of ordinary business has been got through since the courts met after the long vacation, while an unusually large number of appeals has been disposed of; the Lord Chancellor having sat uninterruptedly throughout the term, and heard and decided numerous important appeals.

The Court of Divorce appears still to be the most flourishing of all our courts, in point of business. It appears that there are at present about 200 cases in the paper for hearing, which—taking into account the very large number disposed of before the last long vacation—would lead us to expect a permanently large amount of divorce business.

The courts of common law have been all kept tolerably well occupied during the present term, but few cases of any considerable importance have been heard this term in Westminster Hall.

Mr. Samuel Morley, who appears to be the chairman and factotum of some society for the Amendment of the Mercantile Law, has been going about the country making speeches in favour of the Attorney General's Bankruptcy Bill. As the result of Mr. Morley's labours some resolutions have been passed pledging certain local bodies to the principles enunciated by the Bill. We have only to remark that the utility of such adventitious aids is extremely doubtful, and so Sir Richard Bethell seems to think if we may judge from a recent letter from him on this subject. Unless the grievances complained of are sufficient of themselves to cause those whom they affect to cry out, when the Bill comes before Parliament it will be found that factitious clamour will be unavailing. There is no occasion nowa-days to get up extensive organisations, and to retain peripatetic orators, for the purpose of bringing about any real amendment of the law. Law officers of the crown, and cabinet ministers are generally but too glad to take in hand the remedying of any legal grievances affecting a considerable portion of the community; and there is always some danger of mis-legislation in attempting reforms of law which are suggested by small but active bodies of men who have made such grievances a *specialité*.

It would be far better that mercantile men throughout the provinces, in their chambers of commerce, should discuss the forthcoming Bill amongst themselves and without any bias from the eloquence of Mr. Morley, although for our own parts we are disposed to agree in the main with the views propounded by him.

Mr. Serjeant Pigott has been elected member to represent the borough of Reading in Parliament.

The Hon. Society of Lincoln's Inn have appointed as Chaplain to the Society the Rev. Charles John D'Oyly, M.A., son of the late Rev. Dr. D'Oyly, formerly Rector of Lambeth.

M. BERRYER ON ADVOCACY IN FRANCE.

A conflict has lately occurred in France between the public ministers of justice and the bar, respecting the limits of the liberty of defence, which has resulted in a grave usurpation on the part of the former, a corresponding loss of independence in the latter, and a great detriment to the public in respect of its rights of defence. M. Ollivier, as counsel for the defence on a recent trial, having designated the charge of the official prosecutor as an appeal to the most irritating passions, was pronounced guilty of a want of respect to the public administration of justice, and his condemnation was subsequently confirmed by the Court of Appeal.

The decision is understood as declarative of a right on the part of the public ministers of justice to a peculiar exemption from comment or imputation on the score of motives or passions, and has been received by the bar with a strong feeling of protest. A well-written pamphlet has been published "on the relations between the public ministry of justice and the bar," directed chiefly to the question of the liberty of defence, with an introductory letter by M. Berryer, the veteran advocate of fifty years' standing, who pronounces "the publication of such a work both opportune and even necessary, after the opinions and judgments that have been recently expressed in judicial quarters."

An attempt is made (writes M. Berryer) to invent new principles and apply them in the courts of criminal and correctional jurisdiction, for regulating the conditions of the contest, and the very modes of address between the prosecution and the defence. The extreme deference, the attitude of subordination which it is pretended to impose on advocates towards their opponents, the superior authority attributed to the latter, would make serious inroads upon the rights of defence, and the independence and dignity of the bar—those indispensable guarantees of the impartial distribution of justice. In losing freedom of speech we lose also freedom of thought; just complaints are suppressed, the voice of conscience is stilled, our past life is extinguished. *Memoriam quoque cum voce perdidissemus.*

The strong line of demarcation in France between the law officers of the State and the independent portion of the bar—involving such peculiar relations and conflicts—has no correspondence amongst the counsel representing the Crown and the rest of the bar in this country. Here, the prosecuting counsel are retained from the rest of the bar for the occasion only; the highest law officers are distinguished from the bar only by their connection with the Government for the time being, and no distinction exists on which a greater license or dignity need be attributed to those who act on behalf of the State as against private interests. Indeed, in criminal cases, the practice is governed by sentiments of a quite opposite character, and the counsel for the Crown is expected to act with a moderation and reserve which would be out of place in his opponent struggling for the life or liberty of his client.

It is remarkable, however, that the bar in France and in England were originally in a very similar position with respect to the State service, and it is instructive to observe the causes and growth of the changes which have since occurred in the former country. In the early days of the bar in France, as in England, no distinction existed between its members as serving the State or serving private persons. The King selected from the rank of advocates the most eminent and the best qualified to conduct the law business of the Crown, under the titles of *procureurs* and *avocats du roi*, or *avocats generaux*. The public business was assigned to these exclusively, though they might employ their leisure in the affairs of private persons. The rest of the bar were restricted to the conduct of private business.

These permanent retainers by the Crown were the origin of the subsequently highly-organised public ministry of justice. The duties of the Crown lawyers gradually extended over all the public department of

justice, and were regulated in a strictly official form. Under this head were comprised the magistracy, the functions of the Crown in respect of prosecutions, and all the proprietary and executive rights of the Crown in connection with the law. The public ministers of justice who fulfilled these functions were members of the local parliaments or courts of justice, and irremoveable. They thus held an independent position, which enabled and interested them in asserting the pre-eminence of the law against usurpations and infringements, from all quarters. Their official position superseded that of the mere barrister, and in course of time the law officers were forbidden to undertake private business. Nevertheless, they retained their connection with the order of advocates, amongst whom they took precedence at the head of the list. They obeyed its internal rules of discipline, and were zealous to maintain its privileges and independence, and contributed chiefly, by the dignity and authority of their offices, to raise the *noblesse de la robe* to a higher point of social and political importance than has been attained by the bar in any other country.

Such was the connection between the bar and the public ministry of justice under the ancient *regime*. The modern principles of government subsequent to the Revolution effected a complete change. The local parliaments, with their magistracies, law officers, and advocates, which had for so long formed an effective safeguard for law and justice, were all swept away by the Revolution; and the administration of justice was re-constituted upon the bureaucratic principles which have since prevailed. The public ministry of justice was re-organised strictly as a department of the Government. Its officers were made removeable at will, and brought entirely under the control of the central power. They were cut off from their ancient connection and sympathy with the bar, and stripped of the independence which they formerly vindicated as members of that profession. Napoleon hated advocates, and would have dispensed with them altogether. In a characteristic ebullition of temper he called them a set of conspirators, who did nothing but hatch crimes and treasons. "I should like," said he, "to cut out the tongue of the advocate who acts against the Government." Under the Empire, the order of advocates was re-constituted with very attenuated rights and liberties. After the Restoration it was again invested with its ancient usages and discipline, and enabled to resume its duties with suitable independence and dignity.

The policy of organising the conduct of all the public law business in an official form has thus led to an entire separation between the bar and the law officers; or, rather, has cut off from the bar, properly so-called, all employment in public business, leaving it exclusively to the conduct of private interests. In criminal matters, its office is confined to the defence. Notwithstanding the long historical connection between the public ministry of justice and the rest of the bar, accompanied with such brilliant results, the two bodies now appear directly opposed to one another, both in interest and in spirit. The one is considered as the advocate of the interests of the State and of justice, while the other is treated as a public enemy. The former have, in fact, become the mere servants of a despotic authority, while the latter are the last representatives of individual liberty, and are engaged in a struggle to maintain their very existence.

M. Berryer thus writes of this relation between the bar and the public officers of the law, which we have endeavoured above to explain:—

> There is a tendency manifest in the present day fraught with great danger to the State, to diverge from the manners and principles which formerly in France united the magistracy and the bar. It is well to recall these to mind, and to point out the common origin whence arose both the order of advocates and the great and wise institution of the public ministry of justice. In early times the advocates were frequently called upon to appear for the Crown and for the State, without ceasing to plead in private causes, and thus, their service of the Crown being restricted to the occasion only, they lost nothing of the spirit of their order, or of zeal for its independence. When, in later times, these functions were constituted into offices, the most illustrious of our magistrates deemed it an honour to have risen from the bar, and the most eminent of these great men were the most eager to respect our traditions and liberties. So long as our advocates shall remember what De Mesmes, De Vair, Pasquier, Talon, Sequier, d'Agnesseau, spoke and wrote concerning the prerogatives and dignity of their profession, they will remain fully instructed as to the limits both of their rights and duties.
>
> The melancholy contrast which now presents itself to the sentiments which the crown officers formerly entertained towards the order of advocates, can be attributed only to the new conditions of the appointment, advancement, and discipline of the magistracy.

The policy of an official organization of all the functions of the State, notwithstanding it appears to be fraught with such disastrous consequences to liberty, seems to find favour with French jurists, and to be in harmony with the national idea of government. M. Berryer, as seen above, describes the public ministry of justice, whose encroachments he is combating, as "a great and wise institution;" and we find the same institution spoken of in the pamphlet before us, in the following terms of admiration:—

> France may lay claim to the public ministry of justice as an institution eminently national. What idea could be more noble or more Christian than to remove the prosecution of crimes from the hands of private vengeance; to pursue evildoers with the terrors of the law, without exposing honest men to the greedy attacks of common informers; to secure the punishment of crimes at the same time that the denunciation of them is made honourable?

Now that the proposal for a system of public prosecution happily finds favour in England, it may be well to notice the extreme effects of the policy in question as illustrated by the recent encroachments on the French bar; and to be warned in time so to mould the institution as to avoid the danger of setting up a body of officials armed with authority, and imbued with a spirit, hostile to the advocacy of private interests, and to the rights of defence. It is but recently that the English law has fully recognised the right of the accused to meet his accuser on equal terms, by allowing him to appear by counsel; and under the present system we are at least sure that liberty of speech on behalf of the defence is safe in the hands of the advocates, by whom it is so liberally exercised throughout the country.

The second empire is actuated by the same spirit of enmity to the independence of the bar as the first, but is conducted with more temper and address. It has succeeded in clipping the tongues which the first Napoleon vainly longed to cut out by the roots. The recent decision of the French courts places the advocate on terms of inequality and inferiority to his official opponent. All comment on the motives or actuating spirit of the prosecution is forbidden as a contempt of public justice. The *argumentum ad hominem* is interdicted; and the defence is restricted to the dry syllogisms of logic. The advocate is thus not only deprived of his most dangerous offensive weapon, but is stripped of his most effectual armour of defence; and in this manner does he enter the lists against the full panoply of the champion of Government. Upon what unequal terms is the French subject reduced to contend with the Government for his life and liberty, property, and honour?

Perfect equality in the presence of the judge seems the first axiom of justice; yet in the France of the present day it is judicially denied, and the following able and eloquent arguments of M. Berryer serve only as a protest against its denial:—

> In the interests of all, it is impossible to mistake the right

and necessity of a perfect and reciprocal liberty of discussion between the advocate and the organ of public justice. In forensic contests, particularly before criminal tribunals, where the lives of men, or those possessions most dear to them, honour and liberty, are disposed of, the general interests of society are divided. If it is important to the authority of the law that the vigilance of the magistrate should preserve society from the misdeeds which threaten its peace, and that a just punishment should fall upon the authors of crimes which have carried desolation and ruin into its bosom, it is no less important to the safety of all that unjust accusations should be repelled, that a man should not be deemed guilty simply because he is accused, and that he should be energetically defended against the errors, the passions, the ignorance, and the weaknesses of his judges, be they magistrates or juries. How astonished we should be to see the organ of Government, prosecuting for some great crime—a horrible attempt, some dastardly treason or foul libel—open his case without boldness or indignation, and without an urgent appeal for public vengeance? Ought not the question of guilt or innocence, the evidence of right or wrong, the manifestation of truth or falsehood, to arouse an equal passion in the hearts? Do not they claim the same authority of speech, the same energy of language? When the lists are once opened between the prosecution and the defence the contest should be fought with equal arms.

In the barbarous ages of judicial combats, when a gentleman appealed a villain, he was bound to present himself on foot with staff and buckler; and if he came mounted with the arms of his rank, his arms and horse were taken from him; he was stripped to his shirt, and was compelled to fight in that condition against the villain. This impartial practice of a rude equality, in the contest which established innocence by victory, betokens even in that ignorant age an instinctive sentiment of fairness, and a simple desire to ascertain the truth which we no longer find in the phraseology of modern writers, who claim to invest one of the champions in the judicial arena with a greater authority, to assign to him a greater liberty, and to impose upon the judges of the contest a greater deference for his convictions and opinions, than is to be accorded to his adversary.

Such claims are quite incompatible with the free scope required by the advocate for the exercise of his vocation, and far exceed what is fairly due by the mere rules of decency and courteous intercourse. A proper respect and courtesy towards his opponent are the willing homage of every advocate who claims himself to be respected, and impose no constraint upon the freedom of his thought or language. M. Berryer speaks with the authority of a master in describing what are the liberal requirements and the wide limits necessary for the practice of his vocation.

Quick repartee, vehement apostrophe, home-thrust argument, sarcasm, even invective, are the vivifying and sustaining breath of forensic eloquence when she wings her loftiest flights. Nay, they are the emanations of conviction, the unprepared and unexpected evidences of a clear conscience, the response of the devotion and zeal due from the advocate to the cause which he has promised to sustain. How many are persuaded that an objection is unanswerable which is not repeated with a startling burst of energy?

Truth reaches not the understanding unaided; God has not granted to every judge the eye which sees, the ear which hears, *oculum videntem et aurem audientem*. What efforts are often necessary to force open the understanding? Truth must be borne constantly forward, and all obstacles must be crushed before it. *Fit via vi*. Obstacles are innumerable. Bossuet, who knew all the weaknesses of men and of human institutions, turns his observant eyes upon the judges assembled in their tribunal. "One," says he, "disturbs your thoughts with his precipitation, another damps your spirits with his unsettled and doubtful countenance; this one puts on an habitually good-humoured look and lets his thoughts wander, so that you cannot arrest his distracted attention; that one, harder still, has his ears closed with prejudice, and incapable of expanding to the reasons of another's mind, listens only to what is passing in his own. Not to speak of the shame and reproach of corruption, we may also mention the cowardice or the license of that arbitrary justice which, without rule or maxim, turns itself about to serve the will of the power which befriends it." It has always been the task of the orator at the bar to encounter and subdue these obstacles of the head and of the heart; and now that the contest between the prosecution and the defence is conducted before a jury, with whom it is so easy and natural to reconcile their consciences by obeying the voice of Mr. Attorney-General, who would dare to prescribe for the defending counsel an attitude of timorous deference towards his antagonist, or compel him to abandon any portion of his true dignity, and of the force of his convictions? What would become of justice? What would become of the sacred liberty of defence?

M. Berryer draws a melancholy picture of the present state of advocacy, sitting in solitary grandeur amongst the ruin of liberties, in France.

When the tribune is mute, or its voice heard only in imperfect echoes; when the censorship of the press undisguisedly interposes its official warnings; when the journals are subjected to the fear of summary suspension or suppression; when the right of petition is placed under the protection of the senate, just as under the first empire the liberty of the individual and of the press were entrusted to senatorial commissions; when ministerial responsibility is abolished, and criticism of public acts may be at once construed into outrage or attack upon the head of the State, from whom all things proceed, and to whom all things turn; when the hopes of promotion corrupt the independency of the magistracy; when impatience 'or the success of prosecutions denounces judicial moderation or indulgence, as paralyzing justice, and ruining the cause of morality—the independence of the bar remains the only bulwark to the citizen against the angry assaults of power, the violation of rights, and groundless persecution. The worst may be feared if this is mutilated; nothing need be despaired of if it is maintained and respected. My hope is, that through the bar will triumph the persevering efforts of sound reason, the spirit of justice and of public virtue. I may, at least, say with d'Agnesseau, through the bar will be heard the last cry of expiring liberty.

CRIMINAL PROCEDURE.

We lately printed a paper which was read by Mr. J. Campbell Smith, advocate, at the recent meeting of the National Association in Glasgow, the design of which was to contrast the modes of criminal procedure adopted in England and in Scotland respectively. It was, moreover, Mr. Smith's object to point out that each country might borrow with advantage from the jurisprudence of the other; and we believe that every unprejudiced person who considers the subject cannot fail to arrive at the same conclusion. Both systems have in fact their acknowledged excellences, and their undoubted defects. These have been thoroughly tested by centuries of experience, and the obviously wise course would now be to assimilate, as far as possible, the criminal procedure of the two countries by retaining the good and rejecting the bad in each. We are aware that many popular prejudices must be overcome before this much to be desired consummation is likely to be attained. But looking to the great and beneficial changes which have recently been effected in the law, we entertain sanguine hopes that steps will be taken before long for assimilating in its most important features the system of criminal procedure in the two countries.

Mr. Smith appears to consider that the great defect of the English system is the want of public prosecutors duly authorised to act on the part of the Crown, and to take the necessary steps to bring offenders to justice. It is but a short time since we called the attention of our readers to this anomaly in English jurisprudence. We pointed out the serious consequences resulting from it, and referred to the various plans that have from time to time been suggested for its removal. We need hardly say, therefore, that we entirely concur in Mr. Smith's views as to the superiority of the Scottish system in this respect. Let us take for example the case of the Road-hill murder, which is now exciting so extraordinary an amount of interest throughout the kingdom; all the investigations which have

taken place respecting it, with the exception of the coroner's inquest, have been of the most anomalous description. From the arrival of Mr. Whicher, the detective, on the scene, until the latest exhibition of Mr. Saunders, all the proceedings have been singularly irregular, if not wholly unprecedented in our criminal annals; and yet they have obviously arisen from the necessities of the case. The coroner's inquest having failed in pointing out the guilty person it was literally the duty of no one in particular to pursue the matter any further. Hence the interference of the executive authorities became not only justifiable, but inevitable under the circumstances. In Scotland, had the murder taken place there, no such necessity would have existed. It would have been the duty of the officer upon the spot, the procurator fiscal, to have examined every witness who could throw any manner of light upon the subject, and to have continued his investigations so long as a chance remained of getting at the truth. Had such an officer existed in England, there would have been no reason for the appointment of Mr. Slack to perform the duties of a public prosecutor, and we should have heard nothing of the extraordinary proceedings of Mr. Saunders. We entirely agree with what the Recorder of Warwick, Sir Eardley Wilmot, publicly stated the other day regarding this case—viz., that it was another striking instance, if, indeed, one were wanting, of the necessity which existed for the appointment of such an officer in England.

But while admitting that Scotland has the advantage of us in respect of her possessing a public prosecutor, we cannot help thinking that there is one privilege possessed by that officer which is to the last degree unconstitutional and unjust. We all know what the practice is in England when a person is brought before a magistrate charged with any crime. After the witnesses have all been heard, the prisoner is asked whether he has anything to say in his defence, but with the caution that whatever he does say may be used in evidence against him: but until the whole case against him has been heard, no one has a right to put a question to him. It is otherwise in Scotland. Mr. Smith informs us that,—"As soon as possible after his apprehension, and before he can take advice, *which, indeed, is shut out from him*, the accused is taken before the sheriff or other magistrate, who tells him what the crime is with which he is charged; that the procurator fiscal, who is present, is to ask him questions about his participation in that crime; and that he need not answer them unless he please, but that his answers will be taken down and may be used as evidence against him." This treatment of a suspected person is certainly opposed to all our English notions of justice and fair play. Why, in the first place, should he be debarred from all advice while undergoing his preliminary examination? Upon what principle should counsel be denied to him when he is before the magistrate and allowed to him when he is before the judge? In truth he has more need of legal advice during the first stage of the proceedings than during the last. He is questioned by the public prosecutor while before the magistrate, but at the trial he undergoes no such ordeal. As to the questioning process of a person suddenly accused and compelled on the moment either to answer everything, or to wear by his silence, at least, the appearance of guilt, it is a species of moral torture which is a standing reproach to the law of Scotland. It may be said that the practice is conducive to the interests of truth, but we have grave doubts upon this point. Guilty persons, and more especially old offenders, often exhibit the utmost coolness and self-possession in courts of justice, while the innocent are as often bewildered and confused, and may by their unguarded answers insure their conviction. Mr. Smith expresses himself strongly upon this blot, as he justly terms it, upon the law of Scotland; and we sincerely trust with him that it will soon be swept away.

Mr. Smith would also follow the example of England in creating a court of criminal appeal. In the absence of such a tribunal he tells us that the criminal law of Scotland is in a state of singular confusion and uncertainty. Indeed, we can hardly understand how such a state of things can continue to exist in any country where law bears the semblance of a science. "One set of judges," he says, "decide that an attempt to steal is not a crime, and another that an attempt to pick pockets is a crime. The High Court decides that selling a pledged article without authority is not theft, and a judge on circuit lays it down to a jury that it is theft. One judge tells a jury that before they can convict a mother of infanticide, there must be proof of complete living birth, as the judges of England always do, and the woman is acquitted; and another judge does not lay down that law, and, after evidence precisely the same as that on which the other was acquitted, a poor wretch is convicted and sentenced to penal servitude or to death, &c." If such is the uncertainty of Scotch criminal law, we do not wonder that Mr. Smith should advocate the creation of a court of appeal.

Scotland might also borrow with advantage from England the ancient and important institution of coroners inquests. It has been said, indeed, that these investigations would be superfluous in a country which maintains an efficient staff of public prosecutors. But we have heard Scottish lawyers of experience express a strong opinion to the contrary, and we can easily perceive that in cases of murder the coroner and the public prosecutor might mutually aid each other in arriving at the truth. Upon the whole Scotland has much more to borrow from England with reference to criminal procedure, than England has to borrow from Scotland. If our neighbours can shew us how to establish an efficient system of public prosecutors, we shall be greatly obliged to them. If, on the other hand, they would borrow more largely from our principles of criminal law, create a court of criminal appeal, and introduce coroners inquests, we cannot but think that their system of jurisprudence would be vastly improved.

THE LAW OF JUDGMENTS—(23 & 24 Vict. c. 38).

A brief review of the law of judgments, as it was at the time of the passing of this Act, is indispensable to explain the nature of the changes introduced by the recent statute (23 & 24 Vict. c. 38).

The rights of judgment creditors against the lands of their debtors are wholly statutory, and had no existence at common law, which limited execution to goods and chattels, and to the growing profits of lands. For these the respective writs of execution were those of *fieri facias* and *levari facias*. The 13th Edward 1, St. 1, c. 18 (Westminster 2) conferred on judgment creditors their first powers over realty, and enabled them by a writ of *elegit* to extend one half of the debtor's land, and to hold it until their debt was satisfied out of the produce of the land, according to the estimate of the extent. A judgment thus became a lien upon lands subsequently bought by the debtor, and continued to bind his lands even after their alienation to a purchaser. The statute was passed at a time when the alienation of land was not legal. Hence arose a neglect of the rights of purchasers without notice, after the alienation of land was legalized by the statute *quia emptores* in the same reign. To obviate this defect in the statute of Westminster 2 has been the chief object of most of the subsequent statutes upon this branch of the law, and the sole aim of the enactment which we are now considering. The confusion into which the law of judgments has run has been owing to the piecemeal and inconsistent legislation to which they have been subjected

Judgment creditors have been held not to be purchasers; not to have either *jus in re* or *jus in rem*, but a *tertium quid*, a lien hovering over the estate, the nature of which a purchaser or his lawyer could not understand; but, at the same time, could by no means disregard. The remedy for this anomaly is to treat judgments either as purchases *pro tanto*, and charges upon lands, of equal force with mortgages, or to rank them as regards land only as simple contract debts. Why should not judgment creditors be protected as purchasers by those who profess to have the interests of purchasers in view? But to those who exclaim against the continuance of such a mode of encumbering land we offer, on the other hand, no opposition. If the law opposes a form of contract which individuals prefer, these will readily discover some other mode of securing their creditors, if not of defeating the supposed statute. What is desirable is certainty in the legal relations of judgment creditor and debtor. Let these relations be extended so as to constitute judgment creditors mortgagees, as is the lawin Ireland, or let all the statutes from that of Westminster 2 to the recent Act be repealed. We have no predilections or prejudices in the matter. We desire certainty, or as near an approach to it as reasonable diligence in the work of legislators may produce, and, as a prelude to that desideratum we deprecate all legislation that does not aim at accomplishing somewhat of a consistent harmony of the legal relations which it endeavours to control.

Judgments, as determined in their operation by the statute of Westminster 2, bound freeholds, impropriate rectories and tithes, leaseholds, and reversions. But equitable freeholds, copyholds, advowsons in gross, estates in joint tenancy, and estates tail after the death of the conuzor, unless put in settlement by the tenant in tail after the rendition of the judgment, were not so bound. The writ of *elegit* under this statute extended only one half of the land. By dividing the debt into two sums, however, and thus taking two judgments of the same term, the entire of the land might be extended. The judgment, however, became a general lien upon all the lands which the debtor owned or possessed, either at the time of the rendition of the judgment, or subsequently; and this lien was so conclusive that it bound the land even after its alienation by the debtor to a purchaser for valuable consideration without notice. (2. Cru. Dig. 49.) The guarantees of Jersey, as described *ante*, vol. iv., p. 905, resemble in their operation the legal powers of judgments, as they were determined by the statute of Westminster 2. The law of judgments, as thus settled, was wholly in favour of the conuzees, and wholly against subsequent purchasers from the conuzor. Upon this point there was no mistake or ambiguity, and so far the statute was valuable. The Statute of Frauds enlarged the rights of judgment creditors, so as to render equitable estates of freehold extendible. But the statute did not apply to equities of redemption, nor to any trusts but such as were clear, nor to trusts of terms.

We now enter upon a review of a series of enactments operating mainly in a different direction, relieving purchasers, and so far injurious to the conuzees, yet only effecting partial and incomplete changes, and, on the whole, injurious as raising an indefinite amount of litigation. The first relief given to purchasers from conuzors of judgments, in contravention of the statute of Westminster, was given by the 14th and 15th sections of the Statute of Frauds, which provided that judgments should be deemed to date, *quoad* the purchasers from the conuzors, only from the time that they should be signed, and not from the legal date, viz., the first day of the term in which they were recovered. The 16th section of the same statute also relieved the purchasers of goods, under which denomination terms of years in land were held to be comprised, unless execution had been issued prior to the purchase. Attendant terms, however, were of course bound, as interests of a freehold nature, and the 10th section of the same statute bound freehold estates held in trust for the conuzor at the time of execution sued. The Docketing Act of William and Mary was intended to give a *quasi* relief to purchasers, by facilitating their search for judgments.

We go on to the 1 & 2 Vict., c. 110, which applied retrospectively, and extended the rights of the judgment creditor, so as to constitute him a purchaser in every sense, except that he could not avoid the voluntary grants of the conuzor. This Act, by its 11th section, applies to leaseholds, copyholds, customary freeholds, and all other hereditaments, and extends the writ of *elegit* to the entire of the lands of the conuzee. By the 13th section of this Act, a judgment was also constituted an equitable charge, so as to give the creditor a direct *locus standi* in equity, and was even rendered binding upon issue in tail and remaindermen, so that a judgment creditor of a tenant in tail was in a better position than the mortgagees of the same, as the latter class of creditors might be defeated by the issue in tail. A judgment had thus a disentailing operation *pro tanto*. The rights of judgment creditors, therefore, under this statute, appear to have been most complete and conclusive. As the title of a conuzor might be in tail, and not in fee, a judgment ought, in all cases of doubt, during the period of the operation of that statute, to have been regarded as a more indefeasible security than a mortgage. It would appear that, as a will by a tenant in tail is, as to such an estate, inoperative, an estate tail could be virtually disentailed, if expedition were necessary, by the rendition of a judgment equal in value to that of the estate, and by the settlement of the trusts of such a judgment (supposing such to be required). The issue in tail could not avoid the judgment, and the conuzee trustee would be estopped from disputing the rights of his *cestuis que* trust, and could not avail himself of the benefit of the statute *De Donis*, issue in tail being the only persons intended to be aided by that statute. Decrees and orders of courts of equity, ordering the payment of sums certain, were, by the 18th section of the 1 & 2 Vict. c. 110, rendered equally binding in all the foregoing respects with judgments. The 19th section relieved purchasers against all judgments not registered. Judgments of inferior courts were, by the 22nd section of the same Act, rendered of equal force with judgments of the superior courts after being removed into the latter courts, but only when a writ of execution was actually given to the sheriff. The 2 & 3 Vict. c. 11, rendered the re-registration of judgments necessary every five years, so as to affect purchasers, mortgagees, or creditors. The 5th section of this Act further secures purchasers, without notice, to such an extent as to repeal, as regards them, the whole of the 1 & 2 Vict. c. 110, and to give even to registered judgments against such purchasers only the effect of docketed judgments before that Act. A *lis pendens* was required by the 7th section of the 2 & 3 Vict., and crown recognizances by the 8th section of the same Act, to be registered, in order to bind purchasers with or without notice.

These enactments, while increasing the remedies of judgment creditors, yet, as they left the other statutes affecting judgments unrepealed, a creditor, if he neglected to register his judgment, as the last statute 2 & 3 Vict. c. 11 required, might, nevertheless, extend half the debtor's land under the statute of Westminster. The law of the registration of judgments, as it stands, operates as a bounty against diligence, for the purchaser is only affected by the registration if he search. If he does not search, he is exempt from all the effects which

registration gives a judgment. Of what use then is the law requiring registration? Registration, as a mere ceremony, wants what alone legitimates all legal ceremonies, viz., their tendency to cause deliberation in the minds of the contracting parties, an effect which ceremonies subsequent to the contract cannot have. The Irish law renders registration, both of deeds and judgments, notice to all, and such an effect may have been at first intended by the substitution of registration for dockets. It now acts directly as a tax upon the conuzors. The only merit of the recent Act is that it aims at a simplification of the law of future judgments as to all estates in land, both real and personal. All legal reforms should aim at this abstract assimilation, which alone can render their operation practically useful. The more generic, the less special, our law is, the wider is the natural application of its provisions, and the less likely is it to work mischief in particular cases. Differences in contracts will always, naturally, exist; but the effort of legislation should be to create neither artificial differences nor unnecessary intricacies of its own. Its branches should in number approach as nearly as possible the minor limit of the varieties of the principles of perfect obligation, and this scientific reduction of its features to the harmony of a system, it should endeavour to realize in all its details. There is no essential difference between insolvency and bankruptcy, between commercial and other contracts; there is no difference in the nature of things between conveyances or limitations of estates in land, and incumbrances upon the same. The tenant for life is but an annuitant upon the fee simple. The judgment creditor is essentially of the same character. He is virtually a rent-charger for a term, as he may by an *elegit* extend the land of his debtor for a term to be computed by the proportion of the yearly value of the land to the amount of the debt. Why, then, should the law create of its own accord rights and remedies which tend to widen the natural differences of the legal relations of different specialty creditors to their debtors? Or why profess to facilitate the deduction of title by complicating the rights of those parties, into whose claims a purchaser must inquire? All changes in the law should be complete, and not only reduce to a common legal measure the legal interests affected, but also endeavour to render that legal measure of the particular class of rights as homogeneous as possible with the other leading branches of the national jurisprudence. If it be only partial it can, of course, have neither recommendation.

The Act which we are considering, leaving the old law untouched as to judgments entered before the 23rd of July, 1860, has so far left all the previous difficulties that beset the conveyancer untouched, while it adds a new set of its own. These, however, as we shall presently endeavour to show, effect nothing very useful. The 1st section of the Act, which recites, "that it is desirable to place freehold, copyhold, and customary estates on the same footing with leasehold estates in respect of judgments, statutes, and recognizances, as against purchasers and mortgagees," enacts "that judgments, statutes, and recognizances, shall not bind lands in the hands of such either with or without notice, unless a writ of execution shall have been issued and registered before the execution of the conveyance, and the payment of the purchase money," and also unless the said writ be actually executed within three months from the time when it shall have been registered. As the Mercantile Law Amendment Act of 1854 has required that writs of execution shall not bind the purchasers of goods as to trade, unless the purchaser have notice of the delivery of the writ of execution to the sheriff, so the present Act appears to have aimed at the registration of the execution, to correspond with the notice required by the former Act as to sales of personal chattels. However, registration not being notice, this provision of the statute must be nugatory in this respect. The whole effect of the Act, therefore, is to create expense, which ultimately falls on the borrower, and its whole object could have been attained by an enactment that judgments should be re-registered, not every five years, as hitherto, but every three months, the vexatious absurdity of which is apparent at a glance. Now, surely all judgment creditors will secure their rights as fully as they can, and there is nothing to prevent them from issuing an execution after the entry of the judgment, registering the execution, and re-registering it every three months. To say that such a proceeding would be illegal and contrary to the policy of the statute, is to maintain the absurd alternative that the Act intended that every judgment creditor who dared to issue an execution should elect to put that identical execution in force, or forego his claim altogether, or otherwise, obtain a new judgment, for the consideration of having given time to repay the debt secured by the former one. The effect of this section, then, is to prescribe that executions affecting land be after the first registration re-registered every three months. The Act may thus be wholly neutralised, while it does not apply to judgments entered up before the 23rd July, 1860, nor to the existing law of judgments as regards the conuzor, his volunteers, representatives, or other judgment creditors. A judgment confessed by a tenant in tail will at present, therefore, operate as a disentailing incumbrance against the issue, but not against remaindermen. Such partial legislation cannot be too much discountenanced, and we are sorry that the *prestige* of Lord St. Leonards' name is lent to such an incomplete performance.

To sum up, a judgment prior to 23rd July, 1860, binds, by force of the statute of Westminster 2 and the Statute of Frauds, half the legal and equitable interest of the conuzor in land even after its alienation to a purchaser without notice; and by force of the 1 & 2 Vict., c. 110, a judgment of the same period binds the entire of the conuzor's interest, whether legal, equitable, copyhold, or customary freehold, an estate tail, or an equity of redemption, unless it be aliened to a purchaser without notice, who is protected by a saving clause in the 1 & 2 Vict., c. 110, and by the several statutes since passed. A judgment prior to the date mentioned also binds the leaseholds of the conuzor, whether his interest in them be legal or equitable, and all claiming under him, except purchasers for valuable consideration without notice, who are protected by the saving clause in 1 & 2 Vict., c. 110, and by the subsequent enactments, and in their hands the terms cannot be extended, even for a moiety: as, by the several statutes passed since the 1 & 2 Vict., c. 11, the latter statute has been wholly repealed as to this class of purchasers, and the law settled as it stood prior to that statute, viz., as regulated by the Statute of Frauds, which enacted that terms should not be bound until after the delivery of the writ of execution to the sheriff. To this common measure, with the addition of the registration of the writ of execution, is reduced the law of all judgments entered up after the 23rd July, 1860. The Act which is the subject of these observations states *in globo* that the law of judgments as to freeholds shall be the same as the law that at present regulates the operation of a judgment upon leaseholds. As so far a reduction to uniformity, it deserves praise. But it is only a step in a direction which requires a much more rapid progress; while as it leaves existing judgments unaffected,

it cannot aid the deduction of title until all judgments prior to the 23rd July, 1860, shall have become extinguished, a period which we prefer recommending to the contemplation of the astronomer rather than to our readers. Registration is in no case a substitute for notice, although it is indispensable to bind land in the hands of purchasers with notice. It is a formality which has no intrinsic force, and is the mere shadow of what registration should be, viz., notice to all. The 3rd and 4th sections of Lord St. Leonards' Act supply *casus omissi* in the Registration Act, which did not give heirs and executors the protection afforded by the Docketing Act. When this latter was repealed, an executor became bound to discharge all judgment debts, of which he might not have had notice, in priority to simple contract debts. These sections, however, afford no room for comment, as illustrating no general principle, except that, in this respect, registration operates as notice.

It is a curious coincidence that so much litigation has been occasioned by two statutes passed in the same session of a reign so remote as that of Edward I.; yet all family settlements are at this day based upon the statute *De Donis Conditionalibus*, 13th Edward I.,' c. 1, a statute which originated fines, recoveries, and an indefinite amount of legal difficulty, both as to deeds and wills, while the difficulties which beset judgments, a statutory product of the same Parliament, we need not repeat. If entails were reduced to ordinary freeholds, as base fees, that is, if the statute *De Donis* were repealed, and if all the statutes relating to the operation of judgments upon realty were in like manner wholly repealed, we should be saved much of the trouble that is occasioned at present by the diligence of our legislators in repairing these ancient bulwarks of the legal art.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

(Sittings in Banco, before Lord Chief Justice COCKBURN, and Justices HILL and BLACKBURN.)

Nov. 19.—*Ex parte Crawshay.*—This was an application on the part of George Crawshay, for a rule calling upon John Baxter Langley, the proprietor and publisher of the *Daily Chronicle* and *Newcastle Advertiser*, to show cause why a criminal information should not be filed against him for certain misdemeanours. Mr. Crawshay had formerly been Mayor of Gateshead, and the present application was made by him against Mr. Langley in consequence of certain articles which had appeared in his newspaper, in the month of August last, to procure persons in England to enlist in the army of General Garibaldi, and for other acts done by him for the purpose of inciting persons to enter into the service of the General.

Mr. *Bovill, Q.C.*, who appeared for the applicant, having made a few preliminary observations,

Lord Chief Justice COCKBURN interposed, and inquired whether this was a case in which it was competent for a private person to come forward and ask for the interposition of the Court. Was there any precedent for the application? If it was an offence, it was an offence against the State, and it was for the Attorney-General to take it up; but his lordship said he never heard of a private person coming forward to make such an application, founded on an article in a newspaper.

After some discussion between the learned counsel and the Court,

Lord Chief Justice COCKBURN said this was a case of a private individual applying to the Court, but there was no precedent for the interference of this Court by criminal information in such a case; and that the Court ought not to grant a criminal information at his instance, but leave him to the ordinary remedy of the law. The applicant might bring the matter under the attention of her Majesty's law officers, who would decide whether it was necessary to interfere. But all this Court said was, that they could not grant a criminal information at the instance of a private individual; but he must be left to prefer his bill of indictment, or to take some other proceedings.

Mr. Justice HILL and Mr. Justice BLACKBURN being of the same opinion, the rule was refused.

Nov. 23.—*Ex parte Lieutenant Allen.*—This was an application for a writ of *habeas corpus*. The circumstances of the case are stated *ante*, p. 4.

The LORD CHIEF JUSTICE said that, unless it were shown that the prisoner had been removed under the order of the proper officer, as required by the 41st section of the Mutiny Act, namely, the officer commanding the district garrison, or colony, they would be bound in law to discharge him. On this state of the facts, the Court doubted not that Lieutenant Allen was illegally in prison, and must be discharged. The Court was clearly of opinion that this imprisonment could not be legally maintained. If, however, the learned Solicitor-General could show that any proper authority for the removal of Mr. Allen had been given, this decision would not be final.

The *Solicitor-General* said he had no reason to believe that he could produce any such authority.

COURT OF PROBATE AND DIVORCE.

(Before Sir C. CRESSWELL.)

Nov. 21.—*Allen v. Allen and D'Arcy.*—In this case a jury had found that Mrs. Allen, the respondent, had been guilty of adultery, but that the petitioner had connived at the adultery, and that he had been a party to a conspiracy against the respondent, and the Court therefore dismissed his petition with costs. The costs having been taxed by the Registrar, a rule *nisi* was obtained on behalf of the respondent for a review of that taxation, on the ground that the common law principle of taxation as between party and party, upon which the Registrar had proceeded, was not applicable to the costs of a matrimonial suit.

Cause having been shown against the rule,

The learned JUDGE said the taxation must certainly be reviewed. In taxing costs in matrimonial suits the Court was bound to adopt, as far as it could, the principles formerly acted on in the ecclesiastical courts. He was informed that in those courts the principle of taxation as between party and party was adopted, but the words as "between party and party" had a very different construction in those courts from that which was placed upon them in the common law courts. In the common law courts costs only of those issues which were found in favour of the parties receiving them were allowed, but he thought that the only limitation which could with propriety be put upon the allowance of the costs of different issues raised in this court must be that where the taxing-officer was satisfied that an issue had been vexatiously put on the record, he should not allow the costs of that issue. The number of witnesses called to prove a particular fact, for whom an allowance was to be made, was a question for the discretion of the Registrar, and must depend upon the question whether there was reasonable ground for calling them. The expenses of the journeys of witnesses for the purposes of identification, and of other matters were not allowed in the common law courts. He thought it desirable that in cases of this nature the rule of the ecclesiastical courts should be followed, and allowances should be made for the expenses of necessary journeys. The taxation would be sent back to the Registrar to be reviewed upon these principles.

Arrears of Business.—His Lordship mentioned, in disposing of an application to fix a time for the trial of a probate cause, that there were 200 petitions for dissolution of marriage now set down for hearing, besides a large number of judicial separation suits, and rather a long list of probate causes.

MIDDLESEX SESSIONS.

The November adjourned General Sessions of the Peace for the county of Middlesex commenced on the 19th instant, at the Guildhall, Broad Sanctuary, Westminstr, before Mr. Bodkin, assistant judge, Mr. Payne, deputy, and several magistrates.

The Assistant-Judge delivered the charge to the grand jury.

Mr. Edwin Hooper, of West Bromwich, one of the coroners for the county of Stafford, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by mar-

ried women, in and for the county of Stafford; and also a commissioner to administer oaths in the High Court of Chancery in England.

The following gentlemen were called to the bar on Saturday, the 17th inst.:—

Lincoln's Inn.—Henry Selfe Page Winterbotham, Esq., London, LL.B. (certificate, first class); Daniel Alexander Freeman, Esq. (certificate of honour, first-class); Thomas Wilkinson John Dent, Esq., M.A., Cambridge; Alfred Henry Say Stonhouse Vigor, Esq., B.A., late of Cambridge; Robert Allan Fitzgerald, Esq., B.A., Cambridge; the Hon. John Byrne Leicester Warren, B.A., Oxford; Edward James Athawes, Esq., B.A., Cambridge; Thomas Bonville Were, Esq.; George Charles, Esq., late of Oxford; Francis Noel Mundy, Esq.; George Dickson Atkinson, Esq.; Henry Colvile Marindin, Esq., B.A., Oxford; Edward F. A'Beckett, Esq.; Horatio Henry Shirley, Esq., B.A., Cambridge; Farrer Herschell, Esq., B.A., London; John Giles Pilcher, Esq.; Matthew Pilcher, Esq.; Samuel Thomas Staughton, Esq.; Henry Stuart Drewry, Esq., M.A., Cambridge, and George Parker Bidder, jun., Esq., B.A., Cambridge.

Inner Temple.—Wm. Rolles Fryer, Esq., B.A.; Fred. Sam. Child, Esq.; Henry Thos. Braithwaite, Esq., M.A.; Rd. Battye, Esq., B.A.; Archibald Levin Smith, Esq., B.A.; Robert Marsden Latham, Esq., Harry Tichbourne Davenport, Esq., M.A.; Joshua Dean, Esq.; Frederick Bridgman, Esq., Joseph Hartley, Esq.; Henry Francis Gillett, Esq.; M.A.; and John Henry William Fenton, Esq., M.A.

Middle Temple.—Edward Bullen, of 2, Brick-court, Temple, Esq.; George Burnett Barton, of Sydney, Esq.; Christopher James Davison, Ingledew, of Northallerton, Esq.; George Frederick Robinson Jervis, of Exeter College, Oxford, Esq.; Cornelius Walford, of 1, Elm-court, Temple, Esq.; and Clement James Wolseley, of Castletown, county of Carlow, Esq.

Recent Decisions.

[*Equity, by* J. Napier Higgins, Esq., *Barrister-at-Law; Common Law, by* James Stephen, Esq., LL.D., *Barrister-at-Law.*]

EQUITY.

Practice—Administration Suits.

Penney v. *Francis*, 9 W. R., M. R., 8.

The practice in administration suits where two or more bills have been filed by creditors for the administration of the same estate, was very unsettled until recently, and there was considerable doubt as to the course which ought to be adopted for the purpose of staying unnecessary suits. Lord Cranworth, however, in the case of *Duffort* v. *Arrowsmith*, 7 De G. M. & G. 434, s.c. 5 W. R. 241, considered that the proper course of proceeding in such a case was that the Lord Chancellor or Lords Justices (see Consold. Ord. vi., R. 1) should transfer the cause in which no decree for administration had been made to the branch of the court in which such decree had been made; so that the judge who had made the decree could, if he thought proper, stay proceedings in the transferred cause. It should be borne in mind, however, that the consent of the judge from whose, and of the judge to whose, court, it is proposed to transfer the cause, ought to be obtained. Previously to the decision in *Duffort* v. *Arrowsmith*, the cases conflicted upon the point whether where a decree had been made in one suit, and none in the other, the judge in the latter suit, or the judge in the former, should be called upon to stay all further proceedings in the suit in which no decree had been made. The general order above referred to appears to favour the view of those who argue that a judge of one court of equity ought not to have the power to prevent the prosecution of a suit before another judge; but this difficulty is altogether removed by adopting the course suggested by Lord Cranworth in *Duffort* v. *Arrowsmith*, and applying for the transfer of the cause as above-mentioned. A more recent case of *Harris* v. *Gandy*, 8 W. R. 32, before the full Court of Appeal, is, however, to the effect that where a decree has been first obtained by means of an *unfair* advantage, the Court will refuse to transfer another suit for administration of the same estate, to the court where a decree has been obtained. The case named at the head of these observations was one in which there had been three suits by creditors for the administration of the same estate, two before the Master of the Rolls, and one before one of the Vice-Chancellors; and in one of the former the usual order was made at chambers on the day before an order was made by the Vice-Chancellor in the suit before him. Upon an application on behalf of a creditor to the Master of the Rolls, to restrain the drawing up of the Vice-Chancellor's order, his Honour refused to make any other order than to give the creditor leave to transfer into the Rolls Court any cause which the Vice-Chancellor might think right. The following observations of his Honour in this case are worthy of attention with regard to the conduct of causes of this kind. "He was not in the habit of giving facilities to strangers to the estate—creditors for instance—having the conduct of such causes, because they were generally regardless of expense. He much preferred to give their conduct to residuary legatees, who were interested in reducing the expenses as much as possible; all other persons being at liberty to attend and assert their claims. It was very important that administration suits should be conducted in a friendly spirit."

Solicitor and Client—London Agent—Lien.

Waller v. *Holmes*, V. C. W., 9 W. R., 32.

In *Waller* v. *Holmes*, Vice-Chancellor Wood has decided that where a client has paid his country solicitor in a suit his bill of costs, papers belonging to the client in the hands of London agents cannot be retained by them for the amount due to them in the suit. His Honour's decision appears to have proceeded upon the ground that there is no privity between the client and the London agent, so as to give the latter any right of lien as against the client; and that as the country solicitor, when he was paid his bill, could not enforce such lien, neither could the town agent do so. Some dicta of judges at common law (namely, per Bayley, J. *Moody* v. *Spencer*, 2 Dow. & Ry. 8, and per Coleridge, J., in *Anderson* v. *Passman*, 7 Carr. & P. 796), are to the same effect as the judgment of the Vice-Chancellor in *Waller* v. *Holmes*. There appears to be, however, some difficulty in the way of the conclusion that there is no privity between a client in the country and the London agent of the country solicitor. The name of the London agent is upon the record, and for all purposes of the suit his acts bind the client as effectually as if the agent were directly employed by the client. There is no doubt, however, that it is pretty well settled that on the one hand the country solicitor alone and not the client is liable to the agent for his bill of costs, and on the other the client cannot proceed in a summary manner against the agent as he could against his own solicitor. At the same time it may be doubted whether upon the principle of the doctrine of lien a town agent should be compelled to relinquish the possession of papers which came properly into his possession, and which he clearly would have been entitled to retain, but for the act of a party between whom and the town agent there was *ex hypothesi* no privity. If the client requires of his country solicitor the delivery up of papers on the payment of the bill of costs, and is unable to obtain them by reason of their being in the possession of the town agent, that would be a reason for refusing to pay the bill of costs; and so long as it remains unpaid the lien of the town agent remains good; but it appears unreasonable to enable a client to defeat this lien, it may be merely for the advantage of the country solicitor or his creditors.

A case of *Hughes* v. *Rogers*, mentioned in the note in the 8th vol. of Mr. Beavan's Reports, 487, seems to be an authority for the proposition that a town agent in a suit may obtain a stop order on a sum directed to be paid to the country solicitor.

COMMON LAW.

The New Attornies' and Solicitor's Act—Counties Palatine, Practitioners in.

Ex parte Watson; *Ex parte Abbott*, 9 W. R. Q. B. 13.

It so happens that the very first case reported from the Queen's Bench in the present volume of the *Weekly Reporter*, raises a point of some interest upon the Solicitors' and Attornies' Act of last session. It the following one:—

By the Act of 1843 (6 & 7 Vict. c. 73) it is provided (s. 43) that all persons duly admitted and enrolled attornies or solicitors of the courts of the counties palatine, *previously to the date of that statute*, might be admitted and enrolled as solicitors or attornies in the High Court of Chancery or the superior courts of law at Westminster, in pursuance of the provisions of that Act, *without examination*, on payment of the proper duty. The effect of this provision was tested in the same year in which the Act was passed, in the case of *Patrick* (1 D. & L. 696), a practitioner in the county palatine of Durham, and the

application to admit him, not only without examination, but also without requiring a *term's notice* of his intention to apply, was granted by Mr. Justice Patteson without any hesitation: There is also another clause in the 6 & 7 Vict., c. 73, which refers to attornies of the counties palatine, viz., sect. 3; the concluding part of which exempts any such attorney or solicitor from the examination required from other candidates for admission and enrolment in the superior courts of Westminster, provided he has duly served the full period under articles, and provided also he shall satisfy the judges of the superior courts at Westminster of his being qualified to act as attorney or solicitor.

Such being the state of the law up to the passing of the late Act, there are inserted therein two clauses which affect the status of the county palatine practitioners. The 13th section establishes for the first time the requirement of examination as well as of due service under articles, before any person can be admitted and enrolled as an *attorney* of a county palatine court. On the other hand, the 14th section recognizes the right already existing under the previous statute, and extends it so as to include any person duly admitted and enrolled in the county palatine courts *prior to Trinity term*, 1861, and allows such persons to be admitted and enrolled, in the superior courts at Westminster without examination.

As to the future, therefore, there seems to be no great room for question. The evident intention of the new Act is to ensure that the county palatine practitioners shall be subjected (as they manifestly ought to be), to the same strictness of examination as other candidates; and it is therefore somewhat difficult to understand the observations of the court (as reported), which would appear to throw some doubt as to this being the effect of the new Act. The immediate question before them, however, was as to whether a "term's notice" was required from one who was qualified by the date of his admission and enrolment in the county palatine courts, to make the application for admission and enrolment in the courts at Westminster. No such notice seems to have been required under the previous Act, and the judges refused to impose any such necessity on the present applicants.

BILLS OF SALE, AFFIDAVITS RESPECTING—DESCRIPTION, REQUIREMENTS OF.

Dryden v. *Hope*, 9 W. R., Exch. 18.

In two recent cases in the Court of Exchequer, the necessary points in the affidavit of an attesting witness of a bill of sale under the 17 & 18 Vict. c. 36, have undergone considerable discussion, and the state of the decisions upon this subject, in the other courts, carefully sifted. The first of the two cases above referred to is that of *Pickard* v. *Bretz* (5 H. & N. 9), which established that under the Act, the affidavit of execution *itself* must describe the occupation of the party giving the security, and that an affidavit defective in this respect is not aided by the occupation of the grantor being fully set forth in the bill of sale, though to that instrument the affidavit expressly refers. For the Act requires three things to be stated in the affidavit itself. 1. The date of the security given. 2. The residence of the party giving it. 3. His occupation. And the omission of any one of those is fatal.

The other case is that of *Wilcoxon* v. *Searby* (29 L. J. Ex. 154), which shows on the other hand, that a *positive* allegation in the affidavit that the occupation of the grantor is so and so, is not essential, provided the affidavit recites and incorporates the occupation given in the bill of sale.

The question raised, however, in the present case was not as to the sufficiency of the statement of the occupation of the grantor of the security, but as to the sufficiency of the description of the *attesting witness* in the affidavit of execution. The description relied on was simply that the instrument was attested by one "W., of Y., Gentleman," the attesting witness describing himself in the attestation clause of the instrument as being clerk to one "T., solicitor of B., in the county of Y." The description thus given in the affidavit of execution was held insufficient according to the principle of the first of the above cases. For the description itself being bad (no residence being given) could not be helped out by the good description contained in the attestation clause of the bill of sale; which the affidavit of execution did not recite and incorporate in itself, as was done in the other case of *Willcoxon* v. *Searby*. As to the sufficiency of the description of an attesting witness (being an attorney in practice,) as "gentleman" if his residence be properly added, see *Tyton* v. *Sanoni* (6 W. R., Exch. 545).

MUNICIPAL CORPORATIONS—STATUS OF MAYOR—5 & 6 W. 4, c. 76, s. 97.

Ex parte Mayor of Birmingham, 9 W. R., 34.

The question raised in this case was by no means an unimportant one, nor was it (as is submitted) at all free from doubt. Yet it was dismissed by the Queen's Bench without any argument whatever; and a decision given by that Court which, whether right or wrong, will, as it becomes known throughout the country, produce confusion if not unseemly quarrels in many provincial towns.

The 57th section of the Municipal Corporation Act (5 & 6 Will. 4, c. 76) provides for the status of the mayor of each borough. It makes this officer (unless otherwise disqualified) a magistrate during office, and for a year afterwards, and it then proceeds to enact that, "such mayor shall, during the time of his mayoralty, have precedence in all places within the borough." The meaning which common usage has hitherto attached to these words, has been that the mayor as such is entitled to preside at all meetings in the borough, whether of magistrates to administer justice, or of the corporation for the transaction of borough business; and indeed he usually takes the chair at *all* public meetings whatever held in the borough. The Court of Queen's Bench, however, decided in this case, that the precedence thus accorded him, so far as regards the meetings of the magistrates, at all events, (for with regard to meetings for the transaction of borough business other than magisterial, the Court does not express an opinion) is merely by way of courtesy; and that the only precedence in the borough to which he is entitled by law is a *social* precedence, whatever that may import. According to this decision, therefore, a mayor is no longer the *chief magistrate* of his town; though to whom that title more properly belongs it seems difficult to pronounce an opinion. It may be observed that by sect. 103 of the same Act, in any borough which has a separate quarter sessions, the *recorder* of such borough "shall have precedence in all places within the borough of which he may be the recorder next after the mayor thereof." It is very difficult to suppose that this provision, also, refers merely to precedence at social parties and the like; and yet if there be no *magisterial* precedence in the case of the mayor, what is to become of that of the recorder, which depends on that of his superior official?

Correspondence.

THE ATTORNEYS' AND SOLICITORS' ACT, 1860.

Supposing a barrister has been called ten years, but has never practised, and then is disbarred, and has been an attorney one hour, is he or not (under the 16th section) eligible for the Solicitorship to the Ordnance, the post of taxing master, or any other office? It seems to me he is. X. Y. Z.

THE COMMON LAW—JUDGES' CHAMBERS AND MASTERS.

I observe a letter in your impression of the 17th, from which it is to be inferred that a gentleman who calls himself "A Constant Reader," is of opinion that the masters are hard worked and unable to afford the time to assist the judges by disposing of minor summonses, as suggested by one or more of your correspondents. All I can say is, that of the Queen's Bench masters only two could be found in attendance for several days after the long vacation had terminated—at last a third was found, and I conclude a fourth was in court. As three are recent appointments, there was the less reason for their absence. Only last Tuesday, one who had made several special appointments before him was not to be met with when one was attended and another master declined to take it in his absence. A COMMON LAW CLERK.

PROTECTION FROM ARREST.

Referring to the article in the *Solicitors' Journal* of the 10th instant, on this subject you will, I am sure, allow me to make a few observations on the practical working of the 23 & 24 Vict. c. 147, which extends the Gentleman's Act to Debtors in actual custody. You say in your excellent remarks, "that arrest and imprisonment for debt are still the law of the land," but it seems to me that the Act alluded to has been passed for the purpose of eluding those laws, and to enable a dishonest

man to cheat his creditors; for, under the provisions of this Act, the creditors whose names are inserted in the petition of the debtor are not required (as in all other proceedings in the Court of Bankruptcy) to make oath of the debts due to them before voting for the petitioner; but the debtor having inserted their names in his petition, and without even the petitioner swearing to the truth of his petition, the creditors may out of court assent to the proposal, and sign an authority to vote, and the debtor is thus enabled to obtain his end, protection from arrest. The practical working of this measure, therefore, is, that a non-trader owing, say £1000, to creditors who have probably proceeded to judgment, imagines he owes £2,500 to certain other persons. A petition with a proposal to pay probably 2*s.* 6*d.* in the pound, is prepared, signed by the friendly creditors, no proof of debt nor oath of petitioner being necessary, and presented to the Court. The Court, considering the creditors the best judges of the proposal, forthwith confirms it, and the unfortunate *bonâ fide* creditors are sacrificed.

Surely creditors are entitled to some protection as well as debtors.

A. S. M.

The Provinces.

BRISTOL.—At the opening of the police court at Lawford's Gate on Thursday the 15th inst., the Rev. W. Mirehouse being the only magistrate present, Mr. P. Edlin, barrister, applied for the adjournment of an affiliation case, in which he was engaged as counsel for the defendant, in order that the attendance of certain witnesses for the defence might be procured. It appeared that Mr. Mirehouse had been applied to at his private residence for summonses for these witnesses, and (as stated by Mr. Edlin) had declined to grant them. Mr. Mirehouse, however, denied that he had refused to grant the summonses. The application for the adjournment was made in order that those summonses might be issued. Mr. Edlin then applied for the summonses, and having again asserted that it was for the purpose of bringing together witnesses, who but for his (Mr. Mirehouse's) refusal to grant summonses, would have been present, and also expressed an opinion that such refusal was not consistent with the usual legal course, the following altercation ensued between the bench and the counsel:

Mr. Mirehouse.—I am surprised that a gentleman should so contradict me. I say I never did refuse the summons; but what I did was this:—A person brought a summons to my house, where I am not obliged to do anything, and wished it to be signed and issued by me then. He said it was to summon a person whom he believed to have had some connexion with the girl. I said, "Sir, it is a perilous course." He then said, "If I get a party who will prove that he had a connexion with her, that will put an end to the whole affair, won't it?" I then ordered him out of my house.

Mr. Edlin.—You forget to state that you were about to sign the summons. If you were about—

Mr. Mirehouse.—I am not to be cross-examined by you—

Mr. Edlin—But—

Mr. Mirehouse.—Be kind enough to hold your tongue.

Mr. Edlin.—You told me that you were on the point of signing the summons, and that you desired him to leave your house. I say that that is a refusal.

Mr. Mirehouse.—I did not refuse.

Mr. Edlin.—You must have refused, or—

Mr. Mirehouse.—I am not going to argue with you.

Mr. Edlin.—You are so intemperate, sir, that professional gentlemen find it difficult to present anything to you in a courteous spirit. You may forget what is due from you as a magistrate sitting on that bench, but I shall not forget what is due from me as counsel in this case.

Mr. Mirehouse.—You do forget. You are the only barrister, and I have had scores—I have had Mr. Stone times out of number to appear in cases that I have heard—that ever I had an unpleasant word with, but you think that you are going to direct and dictate as you think proper.

Mr. Edlin.—I venture to say there is not one of your brother magistrates who would say that of me.

Mr. Mirehouse.—I do say that you choose to dictate to the Court in an arbitrary way.

Mr. Edlin.—I find it necessary to keep you in order.

Mr. Mirehouse.—That you shall not do; and I will not adjourn the case.

Mr. Edlin.—Then I will wait till your brother magistrates are here.

Mr. Mirehouse.—I will not adjourn the case, if I sit here till four o'clock.

The learned counsel here left the court, and was absent for a short time. On his return he made another application for the summonses, but again failed; he then left the court, but shortly afterwards returned and said, "I wish before retiring from this case, which I am now about to do, to state that, not having succeeded in obtaining those summonses, which we are by law entitled to, notwithstanding repeated applications made for them, I, and those connected with me in the case, are about to retire at this stage of the proceedings, and we shall seek our remedy in a superior court." Mr. Edlin, accompanied by Mr. Clifton, his client, then withdrew. Mr. Mirehouse was afterwards joined by another magistrate, and the case was gone into in the absence of the defendant; the magistrates eventually deciding against him with costs. At the conclusion of the case Mr. Mirehouse observed that had the case stood, as, but for the retirement of the parties for the defence it would have stood, he should have been prepared to give a very different judgment.

HUDDERSFIELD.—On the 19th instant the tenant-right holders on the estates of Sir John Ramsden held another aggregate meeting at which, amongst others, the following resolution was proposed and carried without dissent:—"That the stringency of the covenants and conditions necessarily contained in the proposed ninety-nine years' lease, added to the fact that those who have erected edifices under the unquestionable conviction and positive assurance that they were 'never to be disturbed in their possession,' are to be evicted without compensation or equivalent at the termination of 99 years, render any satisfactory settlement of the question between Sir John William Ramsden and the tenant-right owners, under the 'Ramsden Estate Leasing Act, 1859,' wholly impossible; and that, considering the position and circumstances of the tenant-right owners, brought to light through the operations and exertions of the Tenant-right Defence Association, this meeting is of opinion that no lease satisfactorily acceptable to the tenant-right owners can be offered by Sir J. W. Ramsden, except on the basis of a 999 years' term." The tenant-right holders have entrusted the protection of their interests to the Chairman of the "Defence Association."

NEWCASTLE.—The necessity for the appointment of a stipendiary magistrate to conduct the business of the borough police court was clearly exemplified by the condition of that court on the morning of the 12th inst. On that morning the prisoners, the attorneys, the clerks, the police, the reporters, and the public were kept waiting above an hour because one of the magistrates on the rota was absent. In the meantime messengers were running all over the town in search of a magistrate qualified and willing to act. The first that made his appearance was Mr. Alderman Laycock, who was willing but unqualified; and the next was a county gentleman, who was duly qualified but unwilling. Lastly came Mr. Plummer the absentee, and at twenty minutes past noon the business which ought to have commenced at eleven o'clock was proceeded with. It is stated that this is not the first time that the proceedings of the court have been delayed by the absence of magistrates.

STOCKTON.—At the next council meeting several gentlemen will be proposed as additional magistrates for this borough to be recommended by the council to the Lord Chancellor for his approval.

WALES.—PWLLHELI.—At a meeting of the town council of this borough, held on the 9th instant, Mr Griffith Thomas Picton Jones, solicitor, was unanimously elected mayor for the ensuing year.

Reviews.

The Common Law Procedure Act, 1860 (23 & 24 *Vict. c.*126), *with practical notes; and an Introduction explanatory of the new equitable powers conferred on the Courts of Law; and of the Alteration in Procedure and Practice effected by the Statute.* By JAMES STEPHEN, Esq., LL.D., Recorder of Poole; Editor of "Lush's Common Law Practice." Butterworths, 1860.

An edition of the Common Law Procedure Act, 1860, by Mr. Stephen, can hardly fail to be a useful contribution to our current legal literature. The work now before us, moreover, comprises a valuable introduction to the statute, in which Mr.

Stephen gives an account of the Common Law Commission 1850, and of its several reports, having regard especially to the fusion of law and equity, as contemplated in the Law and Equity Bill presented to the House of Lords by the Lord Chancellor last Session, and which after the vigorous opposition which its "fusion" clauses there evoked eventually subsided into the Common Law Procedure Act, 1860. Although it is in this shape of comparatively slender importance, instead of being one of the greatest reforms of the law ever adopted by Parliament—as its noble author characterized the Bill before its fate was ascertained—there are nevertheless in the Act as it passed many provisions of great importance to those engaged in the practice of the law. Mr. Stephen has appended to most of the sections some valuable observations showing the effect of the new enactments upon the law as it formerly stood. We can recommend this edition of the Act as being carefully and well done.

The Practice of the Court of Probate in Common Form Business. By HENRY CHARLES COOTE, F.S.A., Proctor in Doctors' Commons, author of "The Practice of the Ecclesiastical Courts," &c., &c. Also, *A Treatise on the Practice of the Court in Contentious Business.* By THOMAS H. TRISTRAM, D.C.L., Advocate in Doctors' Commons, and of the Inner Temple. Third Edition. Butterworths, 1860.

The fact that an entire edition of a law book has been sold in the course of a year is the best recommendation of its merits. The second edition of the work, the title of which is given above, was published only last year, and as it is well known to the profession as a very compendious and reliable manual of the practice of the Court of Divorce, it is not necessary that we should attempt any detailed account of it. The new edition contains about eighty pages of additional matter, and includes all the statutes, rules, and orders to the present time, together with a collection of original forms and bills of costs. The general division is into the two heads of non-contentious, or common form, and contentious, business, Mr. Coote taking the former subject, and Dr. Tristram the latter. Both these gentlemen have accomplished their book in a manner altogether satisfactory. There are about a hundred pages of precedents for common form business, being a very large increase in the portion of the work devoted to this branch.

Metropolitan and Provincial Law Association.

THE ABOLITION OF OATHS.

The following paper on the Abolition of Oaths and the Substitution of an Affirmation in all Cases, was read by Mr. C. A. Smith, of Greenwich, at the late Meeting of this Association:—

It is a satisfactory indication of the general prevalence of religious feeling at the present day, that whenever any important alteration is suggested in our laws having any bearing, however remote, upon religious or moral considerations, the first inquiry to which all minds are directed is the teaching of the Holy Scriptures on the subject. The question "What is written in the law—how readest thou?" must be answered ere the discussion is permitted to take a wider range, and when due allowance is made for the various circumstances attending the cited example which may detract from its value as an authority on the particular subject of comparison, such a course is wise and profitable; for if the Scriptures of truth speak with no uncertain sound upon any question of doubt, we can have no better sanction for our guidance; while, on the other hand, if the holy oracle be silent, or vague, we can only legitimately refer to it by way of analogy, and not as a dogmatical exposition beyond the scope of argument.

As to the lawfulness of oaths in courts of justice, whatever reliance may be placed by the quakers and other literal interpreters of Scripture upon the words "Swear not at all," an injunction having evidently by the context no reference to judicial oaths, but merely to the indiscriminate and unnecessary use of oaths on ordinary occasions, there are sufficient instances related in the Bible of adjurations for judicial and other purposes to justify the supporters of the existing practice in quoting Scripture in its favour. These instances are scattered throughout the sacred writings, and consist mostly of references implying the existence of the custom of swearing, rather than giving any special directions on the subject, or prescribing any particular ceremonies with which the act was to be accompanied; thus, under the Jewish law as laid down in the 6th chapter of Leviticus, a trespass offering is required of him who may "have found that which was lost, and lieth concerning it, and sweareth falsely." Again, at an earlier period of Jewish history, when Abraham commissioned his servant to seek a wife for his son Isaac among the patriarch's kindred in Mesopotamia, the ceremony of an oath is set forth with great distinctness and particularity; "Put I pray thee thy hand under my thigh, and I will make thee swear by the Lord the God of heaven and the God of the earth. . . . and the servant put his hand under the thigh of Abraham his master, and sware to him concerning that matter." The iniquitous proceedings of Jezebel in working the destruction of Naboth (although no specific mention is made of an oath) discloses the mode then in use of conducting judicial proceedings, the two men wickedly suborned by the queen's subservient ministers for the purpose being represented as set before the accused in the presence of the people, to give evidence on the false charge of blasphemy.

And on the solemn arraignment of our Lord before the high priest on a similar charge, two false witnesses are in like manner brought forward to secure an unjust conviction; and it is remarkable that on that occasion the high priest himself tendered the oath of expurgation in a settled form of words—"I adjure thee by the living God that thou tell me whether thou be the Christ," and the answer appears to be framed upon the model of the usual reply to such a summons from an authorised functionary, "Thou hast said."

It is, however, not necessary to insist further upon scriptural authority, as while it may be admitted that a sanction is to be found in the Bible for the practice of swearing on proper occasions, no one will be hardy enough to assert that it is anywhere prescribed as a matter of duty, or of universal obligation.

In addition to the authority for oaths to be derived from the teaching or silence of scripture, the customs of all nations in all times may no doubt be quoted in favour of the practice, and these preliminary admissions are made in order to disembarrass the subject from any considerations other than those connected with grounds of social necessity and expediency.

Trying the matter then by this standard, the question arises, Is the practice of swearing as at present sanctioned by our laws necessary or expedient with reference to the general security and well-being of the community at large?

The recent abolition of oaths in connection with many matters not of a judicial character, and the substitution of a solemn declaration, while it has placed on record a Parliamentary admission of the policy of abolishing unnecessary oaths, has at the same time done much towards remedying the evils which formerly existed in this respect; but the practice still prevails in courts, both of civil and criminal jurisdiction, as well as in matters relating to the customs, excise, taxes, and other subjects of an extra-judicial character.

It is argued by the supporters of the present system that the abolition of the ceremony of an oath in all cases would unsettle the minds of weak and ignorant persons, and induce many whose moral perceptions are not very clear or delicate to indulge in simple untruth, when they would shrink from incurring the responsibility of breaking an oath, to which early associations and long habit have attached a superstitious reverence.

A few such instances might probably occur at first, although it may well be doubted whether in general the individual who would deliberately, from some corrupt motive, utter an untruth, would be deterred therefrom by a religious scruple or by any stronger inducement than the apprehension of detection and punishment, and in the event of oaths being abolished, the penal consequences of untruth would of course remain; a conviction of falsehood being followed by the penalties for perjury. Is it, however, fair to the sensitive and truth-speaking Christian to impose upon him a painful ceremony, in order that the ignorant and superstitious may be, like children, frightened into veracity; and, on the other hand, is it wise or expedient, as regards the latter class, to preserve a system fitted for a barbarous age, and thereby keep their minds depressed to the ancient level of superstitious dread, instead of enlightening their intellects, and imbuing them with the right principles upon which a due

regard to truth at all times and on all occasions, great or small, important or trivial, should be based?

It would be out of place to dwell upon the various modes and ceremonies by which men's consciences are supposed to be influenced against the temptations to falsehood in different countries, and which, in the case of foreigners, are not unfrequently exhibited in our courts of justice, whether this ceremony consist in breaking a tea-cup, as with the Chinese, or be accompanied by putting on the hat, as in the case of the Jews; and however we may feel struck with the apparent absurdity of such practices, we should not forget that the act of kissing a book appears, doubtless, to those whose corresponding usages we deride, as equally worthy of ridicule from their point of view. With reference to this branch of the subject, the practical irreverence of our own system is vividly pourtrayed in the pungent lines of a member of the legal profession (Anstey) in his Bath Guide :—

> "Here, Simon; you shall—silence, there!
> The truth, and nothing but the truth, declare;
> The truth, and all the truth, be willing
> To speak. So help you——a shilling!"

If this quotation be not remarkable for reverential feeling, it should be remembered that the irreverence is chargeable to the practice thus wittily described, and not to the satirist. If it be an unexaggerated representation of the practice, the objectionable lineaments are not attributable to the mirror, which only too truly reflects the features of the original.

In suggesting an alteration of a law and practice which have existed from time immemorial, it may be fairly urged that the onus of proof of the necessity and expediency of the change lies upon the author of the suggestion, and that the advocates of the continuance of the present system may content themselves with the prescriptive authority derived from ancient usage.

But this general liability is much weakened in the present instance, by the fact that the existing system is wanting in that integrity and universality which would entitle it to plead the claim of uninterrupted usage.

It is really a mere fragment, and when a deduction is made for the numbers claiming exemption from its operation, as Quakers and Moravians, and that large and increasing class who, entertaining conscientious scruples as to taking oaths, shelter themselves under the provisions of the recent acts on the subject, the members of the community who will remain under the degrading stigma of being unworthy of belief save when subject to the religious duress of an appeal to the Divine Being, cannot be quoted as the representatives of a system alleged to be sacred and unalterable, on the ground of antiquity and unvarying custom.

Does not the present partial system involve the inconsistency that, while those who cannot take advantage of our exceptive laws in this respect are subjected to the ceremony of appealing to the Divine Being as a test of their truthfulness, other persons, however loose their religious or moral principles, are admitted to legal credibility upon a mere individual declaration? This course of proceeding offers a premium to dissent from established institutions, and it is a fact that before the passing of the last Oaths Relief Act some persons were induced to continue within the pale of Quakerism for the express purpose of enjoying the immunity from taking oaths in courts of justice, which that profession secured to them.

If urged to specify any particular instances of mischief arising out of the existing practice, it may be difficult to answer the appeal, because the influences of such laws and usages is not open to general observation, and is incapable of being illustrated, like many other questions, by the quotation of a case in point. Its influence is subtle, and in a sense speculative, but it is not the less real, nor less appreciable by those who watch closely the improving progress which is now rapidly making in the moral and religious sentiments of the community.

The retention of merely material forms and ceremonies appealing to the grosser elements of our intellectual constitution, and founded upon a basis of superstitious adherence to certain outward acts, however fitted for a primitive state of civilization, must tend to retard the gradual improvement of the spiritual and moral perceptions, and prevent their attaining that sensitiveness which has a beneficial co-action upon all the best faculties of man, and the only question appears to be whether, after what has been already done in the way of abolishing the ceremony of swearing, the time has not arrived to fill up the complement of the measure by substituting an affirmation for an oath in all cases, without any exception. It may be said that the entire abolition of oaths has not been advocated by judges and other functionaries engaged in the administration of justice, but it is no less true than trite, that those employed in any special pursuit are the last to see and admit the objections and anomalies which are apparent to others who look on without any professional bias; and one benefit to be derived from the proposed abolition of swearing in courts of law would be the cessation of that painful mode of confusing a witness now often resorted to by reiterating to him the insulting remark, "Now, remember, sir, you are upon your oath."

It may also be said that, as in most of our national improvements, a gradual course of partial alteration from time to time should be adopted in this matter, so as not to shock the feelings of the community by too sudden a change; but, on the other hand, it is contended that the gradual process has already been exhausted, and the period has now arrived when the final blow may be safely given to an objectionable, although ancient system connected with our judicial arrangements.

It would moreover be unwise and mischievous, in matters the subject of judicial investigation, to retain in some cases the distinction between the effect of an appeal to the Deity, and a simple affirmation as the test of credibility, and to abolish it in others; as such a course might induce ignorant and ill-instructed persons to imagine that such a distinction rendered an untruth in the latter case more venial than in the former, thereby obscuring their perception of the universal moral obligation that every one should speak truth to his neighbour at all times and under all circumstances. As an additional confirmation of the views herein expressed, it may be stated that the relaxation which has hitherto taken place in the practice of oath-taking has not been followed by any injurious consequences, and that in the prosecutions for perjury which have occurred from time to time, no case, it is believed, will be found to have occurred with reference to mere affirmations, but solely in transactions involving a testimony given on oath in the customary manner.

These views are the result of a lengthened experience in various public capacities, in which the administration of oaths forms a material item of duty, and the frequent adjuration which such functionaries are officially obliged to pronounce on many comparatively trivial occasions, must be felt as a painful and irksome task. The most hopeful endeavours towards rendering the moral sense of individuals more sensitive, and free to act without the support of material aids, must be based upon the education of the younger members of the community, as, although the mature and aged suffering from the defects of early training, and encrusted with the prejudices of long habit, may occasionally stumble at the threshold of truth, without the assistance of the old-fashioned ceremony of an oath, the inculcation upon youth of the importance of truthfulness for its own sake, without reference to such weak appliances, may tend to nurture a succeeding race in more refined and comprehensive notions of the proper sanctions upon which the duty of speaking truth should be established.

These and other similar movements may, it is hoped, gradually bring about a state of things more nearly approaching to the simple principles and motives which we attribute to the original state of man in Paradise.

Should this be accomplished, the time may arrive when in every part of the world the character of a Briton for veracity may be so well established, that his simple word will have more weight as a test of truth than any elaborately contrived ceremonious appeals to the Deity which the blind distrust of barbarous times has invented, and which the obstructive dislike to innovation of succeeding generations, has continued as a substitute for the enduring influences of Christian principle.

Societies and Institutions.

JURIDICAL SOCIETY.

This society held its first meeting of the present season on Monday, the 12th instant. The ATTORNEY-GENERAL presided. Mr. WALKER MARSHALL read a paper entitled, "Is a Judicial Tribunal, either of the last resort or otherwise, bound by the principles laid down by itself on previous occasions?"

After referring to the difference of opinion upon this ques-

tion entertained by the judges, and the different considerations by which it is affected, according as it is considered, with relation to a tribunal of final or intermediate jurisdiction, Mr. Marshall thus continued:—There is a lax morality that much delights in saying that truth is just what each man supposes to be the case. And so it might be said that law is just what a constituted tribunal declares it to be: and so it continues until reversed, and then, but not till then, it ceases to be law. The latter notion I believe to be as erroneous as the former. It is an old definition, that law is the perfection of reason. In almost every question of pure law the premises are settled. If all the Courts were always to reason with perfect correctness, no decision would be reversed, no judgments overruled—all would arrive with the utmost certainty to the same conclusion. Bad law is in many instances nothing else than bad logic. But a conclusion which has been attained by a course of false reasoning, or by the omission of a necessary element to correct reasoning, is never otherwise than a false conclusion. It is not the less a false conclusion because it is the judgment of a Court of competent jurisdiction. Moreover, its falsity may at any time be demonstrated. It is binding on the parties, in some cases upon all the rest of mankind; but does expediency or convenience require that it should be binding on the Court itself in all future cases? I take it to be abundantly clear that the three superior courts of common law exercise an independent judgment upon any matter brought before them; and that although the same point may have been decided in either or both of the other Courts, the duty of such Court is to consider for itself; and it is at liberty to arrive at a different conclusion, and to give judgment against the party in whose favour the other Court would, acting upon its own decision, have decided. The instances of conflict between the decisions of these tribunals are too numerous to admit of doubt being entertained of the fact:—cases of conflict which do not arise from each Court so deciding ignorant of the judgment of the other, but where the one has repudiated the doctrine which it knows to have been laid down by the other tribunal. Thus, in a recent case the Courts of Queen's Bench and Common Pleas construed the word "may" in the County Courts' Act as permissive; the Court of Exchequer, with full knowledge of this decision, held that it was not permissive, but obligatory. An Act of Parliament settled the difference. Without the exercise of much industry many examples would be found in which one Court in Westminster Hall has decided differently from another. The same observation applies to the equity judges of co-ordinate jurisdiction; each exercises an unfettered judgment, and sometimes decides the same point differently. Not a little of the value of a multiplicity of Courts consists in this independent action. The decision of each is a guide and a light to the others, but not a command.

Suppose this were otherwise. There would be no anomaly if the Courts who, in these matters make a law for themselves, were to respect and yield to the decisions of each other, in the same way and to the same extent as to the decisions of a court of error. If they were to say, So long as this principle, laid down by such a court of coordinate jurisdiction, is unreversed and not overruled by a Court of Error, we regard it as binding upon us, would it be convenient to act upon this theory? Would it be in accordance with the principles of justice? The function of a court is to apportion to each suitor that which is his due, according to the law of the land. *The decisions of our Courts are not themselves law.* They are valuable as expositions of the law; an exposition of the law by a Court of Error *must* be acted upon by the inferior tribunals upon the clearest and simplest ground, namely, that if it were not to act upon it, the suitor against whom judgment was given would certainly take the case to the Court of Error and have the judgment reversed. There is the strongest coercion upon the inferior tribunal from this cause to follow the decisions of that which reviews its judgments. But there is no such moral force in the case of a decision of a court of coordinate jurisdiction. In that case the Court is at liberty to say This decision is in our opinion mistaken; it is an erroneous exposition of the law; it is not law, according as we understand the law to be, drawing our inspirations from its own sources from general or special custom, from the imperishable logic of sound reason or the language of the legislature.

After endeavouring to shew that the law could not be altered by an erroneous judgment Mr. Marshall proceeded to discuss the question in its relation to previous decisions of the tribunal itself being binding upon it.

I confess (he said), I am unable to see any valid distinction in point of principle between a decision of the Court itself and one of co-ordinate jurisdiction. The notion that a decision once arrived at imposes a binding obligation upon the Court to decide in future in the same way, appears to me to be founded on this fallacy, namely, that in so deciding the Court laid down *the law*, and therefore, that to decide in accordance with law, it must adhere to that principle in all future cases. If this were true, law with us would be more protean in its form than the most scurrilous of its libellers have asserted. There would be one law in the Court of Queen's Bench, another in the Common Pleas, and a third in the Exchequer. One law in Lincoln's-inn and another in Roll's-yard. The cases are not few in which our Courts *do* conflict, and if every unreversed decision is part of the law of the land, then indeed is the uncertainty more than proverbially glorious. Our system would, if that were true, enjoy the pre-eminence over every other, of laying down propositions diametrically opposed and each equally authoritative.

But I can imagine it to be said it is not on the ground that the previous decision is "law," that the tribunal is bound by it, but upon this reasoning:—It is its own exposition of the law; the court was as wise then as it is now; it was equally assured then that the principle it propounded was correct, as it could now feel assured it would be if it were to lay down a different doctrine: therefore it is more expedient that it should adhere to the principle once laid down, than expose the administration of justice to scandal, by deciding one way in this case and another way in that.

"That in point of fact there may be a change of judicial opinion does not admit of question. A court may as clearly see the infirmity in the reasoning by which a false principle has been established by itself as by another court. A false principle, it may be, propounded at a time when the court consisted of an entirely different set of judges. In all cases in which it reconsiders the principle, it has at least one new light, for in examining critically the prior judgment, it has an aid in solving the question that the court did not enjoy in the first instance. But it may have more than this, the earlier decision may never have been accepted by the profession; it may, as it is expressed, have met with the disapproval of Westminster Hall; the other courts may have decided the contrary—upon what principle should the court be bound to persist in error?

Several cases were cited in the paper as instances in which the superior courts of law had deliberately overruled their own previous decisions. The extent to which courts of final jurisdiction, and particularly a tribunal of ultimate appeal, ought to be bound by their own previous judgments was then discussed. The opinions of the present Lord Chancellor and of Lord Eldon to the effect that the House of Lords cannot decide contrary to a principle it has judicially applied in a previous case, was contrasted with the opinions expressed by Lord St. Leonards and by Lord Cottenham that it may; and the constitution in this respect of the courts of final appeal of France and Prussia was examined. To affirm (said the learned reader) that the decisions of the House of Lords are binding for ever after, until repealed or altered by the legislature is to make this judicial tribunal act in a legislative capacity. No two functions can be more distinct than that of the legislative and the judicial, *judicis est jus dicere non dare.* The nature and effect of that which is propounded by the law maker differs widely from that which is propounded by the judge. The legislator lays down a rule founded upon the most general reasons, derives his knowledge from every possible source, avails himself of every example, is at liberty to ransack every store of knowledge and experience, to consult history and philosophy, consider the spirit of the age, and listen to the opinion of citizens of her own or any other state. The rule laid down by him is framed purposely to meet all cases within the object of the enactment. The judge, on the other hand, has only one particular example before him, considers that only, hears no evidence beyond that, and frames or applies a rule applicable to it alone; consequently he has not the same means of making a law, or rather he has none of the means which are absolutely required to make a law. And to assert that the decisions of the supreme tribunal are binding on itself, as it is undoubtedly on all other tribunals, is to say that its decisions are in effect laws. Instances were cited in which inconvenience had ensued from the House acting upon the rule that it had no power to review a previous decision; and the learned reader expressed an opinion that the balance of advantage lay in holding that the house was not absolutely concluded by every rule or principle it had at any time laid down.

The ATTORNEY-GENERAL thought that the question was propounded in too limited a form. How is a court of primary jurisdiction *bound* by its previous *decisions?* Only when and because the decision becomes a precedent—when it is recognised by other tribunals, and in fact becomes incorporated with the general body of the law. Then the obligation in a court to follow the precedent is founded on public policy. One important element in coming to a conclusion on the present question was omitted in the paper, viz., the value of certainty in advising upon questions of law. One peculiarity of our law is important in this respect. A decision would be of no great importance, where it was the exposition of a written law; but our law is mostly unwritten, and is nowhere else to be found than in the decisions. The principle to be recognised in courts of *final* jurisdiction is different. Lord St. Leonards went so far as to say that the House of Lords is not bound by its own decisions, even where the circumstances are identical. In theory, no doubt, it is equally competent for the House of Lords as for inferior courts to differ from its own former decisions; but it is certainly more conducive to public interests to consider that the decision of the House of Lords finally settles the law.

Mr. WILLCOCK, Q.C., Mr. C. CLARK, Mr. E. WEBSTER, and Mr. DANIEL, Q.C., also spoke on the subject.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Monday, Nov. 26.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Friday, Nov. 30.

CANDIDATES WHO PASSED THE EXAMINATION.

MICHAELMAS TERM, 1860.

Candidates' names.	To whom articled, assigned, &c.
Arnold, Charles Thomas	George Abraham Crawley.
Assinder, Thomas	T. Harding (decd.); J. Powell.
Aston, Frederick Tucker	Laundy Walters; H. Terrell.
Baker, Thomas Mathias	John Baker; C. F. Fisher.
Beaty, Wm. Henry Randall	G. M. Evans; G. W. C. Dean.
Beavan, Edward	Thomas Pearson.
Billson, Alfred	William Billson, jun.
Bowlby, Anthony Garthwaite Temple	Thomas William Bowlby.
Bryan, William	John Stringer Falkner.
Burt, Henry Mattock	John Cutts.
Busby, Silas	Joseph Dyer Sympson.
Callaway, William Parker	John Callaway; Robt. Furley.
Cannock, John Careless	Joseph Cannock.
Carrick, John	John Lee.
Chadwick, Thomas	Philip William Newsam.
Challis, Frederick	William Challis.
Chamberlain, William	James Eldridge.
Collins, Henry	Philip Smith Coxe.
Conquest, John Carrington	Philip Richard Falkner.
Cooke, William	Montague R. Leverson; Wm. W. King; G. Holman, jun.
Cooper, Samuel Herbert	S. Cooper; T. Maynard How; William Hughes Brabant.
Coulson, John	Christopher Carter Foottit.
Dalrymple, William Charles	Charles Frederick Robinson.
Davis, Thomas	Timothy Tyrrell; T. Paine.
Dixon, Septimus	William John Williams.
Dunn, George Whitby	L. P. Gibbon; E. F. Burton.
East, George Edward	John William Howard.
Farrington, John	R. Baverstock Brown Cobbett.
Field, Basil, B.A.	Edwin Wilkins Field.
Finch, Richard	John Mayhew.
Fletcher, George Rutter	Thomas Micklem.
Folder, John	Charles Baker.
Forshaw, John	William Ascroft.
Foster, John, jun.	John Foster.
Gamon, John	John Hignett.
Gardner, James	Robert Swan.
Geach, Robert Edgar	C. H. Stedman; G. Hillyer.
Gerrard, Joseph	M. Dawes; P. Catterall, jun.
Gold, Charles Edmund	Nicholas Charles Gold.
Gordon, Paul Joshua	Richard Boswell Beddome.
Gould, William	William Wake.
Greetham, Thomas	Francis Johnson Jessopp.
Gudgeon, James, jun.	James Gudgeon.
Hall, William Tayton	William Henry Green.
Halse, Richard William Davis Clarence	Robert Thomas Head.
Hart, Robert	Henry Charles Chilton.
Hartley, Francis	Robert Handsley.
Hawkins, Frederick James	Henry Forshaw.
Hellard, Joseph Augustus	Charles Bettesworth Hellard.
Henderson, Edward	Joseph Addison M'Leod.
Holt, James	John Blackwell Helm.
Horton, Samuel Stone	John Rawlins.
Hughes, Frederick James	John Hughes.
Humphrys, Arthur	Ellis Cunliffe.
Iveson, Albert	Arthur Iveson, sen.
Jackson, Arthur	Edward Jackson.
Jackson, George Palmer	Thomas Paine.
Janeway, Geo. Wm. Howard	William Janeway.
Jefferson, James William	Henry John Coleman.
Jehu, Richard	Richard Cattarns.
Jewesson, Robert Hatfield	Alfred Goddard.
Jobson, Thomas	Minshall & Sanders; G. J. Robinson.
Jones, John Henry Locke	John Jones.
Kane, Edward	John Endell Powles.
Kempson, Edward Fleetwood	W. B. Young; R. Jackson; Thomas Plews.
Knocker, E. Wollaston Nadir	E. Knockner; J. M. White.
Lee, James Blacklock	William Carrick.
Leech, Samuel	Edward Gamble.
Leslie, Lewis John	Charles Beville Dryden.
Lindo, Gabriel	William Bush Cooper.
Linton, Henry Piper	John Buchannan.
Mann, George	N. C. Gold; H. Richardson.
Marsden, George William	John Marsden; Charles Bell.
Marshall, Edward Field	John Hough Marshall.
Medcalf, William	Thomas Francis Robins.
Mellor, Wm. Chandley John	W. J. Mellor; J. S. Torr.
Miller, Dalton Thomas	E. F. Burton.
Molecey, J. Molecey Twigge	Moore & Peake.
Montgomery, John	M. Allan; R. M. Allan.
Mossop, Samuel Septimus	C. Mossop; R. F. Bartrop.
Nevett, Francis	Charles Dixon Craig.
Newbold, Thomas Henry	James Clifford Newbold.
Oliver, Edmund Ward	Thomas Oliver.
Oliver, Frederick Wm., M.A.	William Elliott Oliver.
Partridge, Samuel Steads	George Toller.
Payne, Edward	Samuel Carter.
Phillips, William	Thomas Phillips, sen.
Powell, Edward Evans	John Powell; Henry Hawkes.
Price, William Scarlett	J. S. Price; Wm. H. Trinder (decd.); R. H. Peacock.
Richardson, William George	J. P. Bolding; B. W. Simpson.
Rodham, William Were	William Rodham.
Rogers, William	James Johnston.
Romney, Churchill	A. Sproule; C. W. Moore.
Russell, John	Stanley & Wasbrough.
Ryalls, Charles Wager	John Ryalls.
Scott, Joseph	T. Robinson (dec.); J. Greene.
Smith, Thomas Siviter	Thomas Smith James.
Stanford, Alfred	Charles Nicholas Cole.
Steedman, Henry	Lindsey Wm. Winterbotham.
Stocken, William	Frederick West.
Stocks, John	J. Williamson Westmoreland.
Stockton, James	William Munton.
Tattershall, Edward Geo.	W. T. Clarke; J. Singleton.
Taylor, William	Charles Frederick Darwall.
Terry, John	William Melton.
Thomas, Edward Faithful	John Walker.
Thompson, Arthur	B. B. Thompson; H. Marshall.
Tinkler, George Samuel	Charles Hinnell.
Tomkinson, Frederick William	Richard Heaton.
Topham, Christopher	T. Topham; R. H. Herne.
Tredgold, Robert Samuel	Algernon Wells.
Trustram, William Prince	W. D. Gaches; Leonard Hicks.
Urquhart, John	J. H. Hulme; F. S. Anstin.
Wadham, George	Hare & Wadham.
Wadsworth, Frederick	John Wadsworth.
Wagstaff, Frns. Wm. Bentley	Edward Henry Pace.
Walker, Hugh	R. F. & C. J. Welchman.
Walsh, Percival Lewis	F. J. Coleridge; Joseph Leech.

Candidates Name.	To whom articled, assigned, &c.
Warman, William	John Hughes Warman.
Watson, Robert, jun.	Robert Watson.
Watson, Samuel	William Henry Watson.
Webber, Edwin Huish	John Huish Webber.
Welton, William Woodard ...	George Moor.
Western, George Adolphus ...	E. Western; J. A. Young.
Whitefield, Henry Francis ...	J. Weymouth; S. T. G. Downing; T. Nicholls.
Wigglesworth, William.....	J. Bagshaw; J. Bagshaw, jun.
Willaume, Thomas Butts Tanqueray, jun.	W. Murray; T. B. T. Willaume
Williams, John	Richard David Williams.
Wilson, Langford	J. E. Lawton; W. Gregory.
Wood, William John.....	William Kinsey.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

Michaelmas Term, 1860.

At the examination of candidates for admission on the roll of attorneys and solicitors of the superior courts, the examiners recommended the following gentlemen, under the age of 26, as being entitled to honorary distinction:—

Frederick James Hawkins, aged 25, who served his clerkship to Messrs. Forshaw and Goodman, of Liverpool.

Richard Finch, aged 21, who served his clerkship to Mr. John Mayhew, of Wigan, and Messrs. Sharpe, Jackson, and Parker, of London.

Arthur Jackson, aged 21, who served his clerkship to Mr. Edward Jackson, of London and Wisbeach.

Frederic William Tomkinson, aged 22, who served his clerkship to Mr. Richard Heaton, of Burslem.

The council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Hawkins, the prize of the Honourable Society of Clifford's Inn.

To Mr. Finch, one of the prizes of the Incorporated Law Society.

To Mr. Jackson, one of the prizes of the Incorporated Law Society.

To Mr. Tomkinson, one of the prizes of the Incorporated Law Society.

The examiners have also certified that the following candidates, whose names are placed in alphabetical order, passed examinations which entitle them to commendation:—

Thomas Matthias Baker, aged 21, who served his clerkship to Mr. John Baker, of Great Yarmouth, and Mr. Charles Francis Fisher, of Ventnor, Isle of Wight.

William Charles Dalrymple, aged 25, who served his clerkship to Mr. Charles Frederick Robinson, of London.

Joseph Augustus Hellard, aged twenty-two, who served his clerkship to Messrs. Hellard, of Portsmouth, and Messrs. Williamson, Hill, and Co., of London.

Gabriel Lindo, aged 22, who served his clerkship to Messrs. Cooper and Hodgson, of London, and Mr. Nathaniel Lindo of London.

William Rogers, aged 23, who served his clerkship to Mr. James Johnston, of London.

Henry Stedman, aged 23, who served his clerkship to Mr. Lindsey William Winterbotham, of Stroud, and Messrs. Lewis, Wood, and Street, of London.

The council have accordingly awarded them certificates of merit.

The examiners have further announced to the following candidates that their answers to the questions were highly satisfactory, and would have entitled them to prizes or certificates of merit, if they had been under the age of 26.

Basil Field, B.A., aged 26, who served his clerkship to Messrs. Field & Roscoe, of London.

Richard William Davis Clarence Halse, aged 32, who served his clerkship to Messrs. Head and Venn, of Exeter.

Robert Hart, aged 26, who served his clerkship to Messrs. Chilton and Burton, of London.

Edward Fleetwood Kempson, aged 26, who served his clerkship to Mr. Wm. Blackman Young, of Hastings; Messrs. Sharpe, Field, and Jackson, of London; and Messrs. Lawrance, Plews, and Boyer, of London.

Dalton Thomas Miller, aged 30, who served his clerkship to Messrs. Chilton and Burton, of London.

James Stockton, aged 33, who served his clerkship to Mr. Wm. Munton, of Banbury.

William Wigglesworth, aged 31, who served his clerkship to Messrs. Bagshaw and Son, of Manchester.

The number of candidates examined in this Term was 146; of these, 130 were passed, and 16 postponed.

Court Papers.

Court of Chancery.

SITTINGS.—After Michaelmas Term, 1860.

Lord Chancellor.

Tuesday, Dec.	4	The First Seal.—Appeal Motions and Appeals.
Wednesday ...	5	Petitions and Appeals.
Thursday	6	Appeals.
Friday	7	
Saturday	8	
Monday.....	10	
Tuesday	11	
Wednesday ...	12	
Thursday	13	The Second Seal.—Appeal Motions and Appeals.
Friday	14	Appeals.
Saturday	15	
Monday.....	17	
Tuesday	18	
Wednesday ...	19	
Thursday	20	The Third Seal.—Appeal Motions and Appeals.
Friday	21	Appeals.
Saturday	22	Petitions and Appeals.

Lords Justices.

Tuesday, Dec.	4	The First Seal.—Appeal Motions and Appeals.
Wednesday ...	5	Appeals.
Thursday	6	
Friday	7	Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday	8	Appeals.
Monday.....	10	
Tuesday	11	
Wednesday ...	12	
Thursday	13	The Second Seal.—Appeal Motions and Appeals.
Friday	14	Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday	15	Appeals.
Monday.....	17	
Tuesday	18	
Wednesday ...	19	
Thursday	20	The Third Seal.—Appeal Motions and Appeals.
Friday	21	Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday	22	Appeals.

The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

Master of the Rolls.

Tuesday, Dec.	4	The First Seal.—Motions.
Wednesday ...	5	General Paper.
Thursday	6	
Friday	7	
Saturday	8	Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday.....	10	General Paper.
Tuesday	11	
Wednesday ...	12	
Thursday	13	The Second Seal.—Motions.
Friday	14	General Paper.

Saturday ..... 15 { Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday..... 17
Tuesday ..... 18 } General Paper.
Wednesday ... 19
Thursday ..... 20...The Third Seal.—Motions.
Friday ..... 21...General Paper.
Saturday ..... 22 { Petitions, Short Causes, Adjourned Summonses, and General Paper.

Unopposed Petitions will be taken first, and must be presented and Copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Vice-Chancellor Sir RICHARD T. KINDERSLEY.

Tuesday, Dec. 4 { The First Seal.—Motions and General Paper.
Wednesday ... 5 } General Paper.
Thursday 6
Friday ..... 7...Petitions.
Saturday, Dec. 8 { Short Causes, Adjourned Summonses and General Paper.
Monday 10
Tuesday ..... 11 } General Paper.
Wednesday ... 12
Thursday ..... 13 { The Second Seal.—Motions and General Paper.
Friday ..... 14...Petitions.
Saturday ..... 15 { Short Causes, Adjourned Summonses, and General Paper.
Monday 17
Tuesday ..... 18 } General Paper.
Wednesday ... 19
Thursday ..... 20 { The Third Seal.—Motions and General Paper.
Friday ..... 21...Petitions.
Saturday ..... 22 { Short Causes, Adjourned Summonses, and General Paper.

Vice-Chancellor Sir JOHN STUART.

Tuesday, Dec. 4 { The First Seal.—Motions and General Paper.
Wednesday ... 5 } General Paper.
Thursday 6
Friday ..... 7...Petitions and General Paper.
Saturday ..... 8...Short Causes and General Paper.
Monday 10
Tuesday ..... 11 } General Paper.
Wednesday ... 12
Thursday ..... 13 { The Second Seal.—Motions and General Paper.
Friday ..... 14...Petitions and General Paper.
Saturday ..... 15...Short Causes and General Paper.
Monday 17
Tuesday ..... 18 } General Paper.
Wednesday ... 19
Thursday ..... 20 { The Third Seal.—Motions and General Paper.
Friday ..... 21...Petitions and General Paper.
Saturday ..... 22...Short Causes and General Paper.

Vice-Chancellor Sir W. P. WOOD.

Tuesday, Dec. 4 { The First Seal.—Motions and General Paper.
Wednesday ... 5
Thursday ..... 6 } General Paper.
Friday 7
Saturday ..... 8 { Petitions, Short Causes, and General Paper.
Monday 10
Tuesday ..... 11 } General Paper.
Wednesday ... 12
Thursday ..... 13 { The Second Seal.—Motions and General Paper.
Friday ..... 14...General Paper.
Saturday ..... 15 { Petitions, Short Causes, and General Paper.
Monday..... 17
Tuesday ..... 18 } General Paper.
Wednesday ... 19
Thursday ..... 20 { The Third Seal.—Motions and General Paper.
Friday ..... 21...General Paper.
Saturday ..... 22 { Petitions, Short Causes, and General Paper.

Winter Assizes, 1860.

BRAMWELL, B.

Leicester	Dec. 3	Warwick	Dec. 12
Lincoln	Dec. 5	Chelmsford	Dec. 19
Northampton	Dec. 10		

BYLES, J.

Maidstone.....	Dec. 1	Exeter	Dec. 15
Winchester	Dec. 8		

HILL, J.

Newcastle-on-Tyne	Dec. 3	York.....	Dec. 8

BLACKBURN, J.

Chester.....	Dec. 6	Liverpool	Dec. 11

KEATING, J.

Durham	Dec. 5	Liverpool (criminal business)	Dec. 11

WILDE, B.

Cardiff	Dec. 1	Worcester	Dec. 10
Gloucester	Dec. 5	Stafford.....	Dec. 14

Queen's Bench.

NEW CASES.—MICHAELMAS TERM, 1860.

CROWN PAPER.

Salop.	Henry Davies, Appellant; The Right Hon. Richard Baron Berwick, Respondent.
Hampshire.	James Tayler, Appellant; Edward Routledge, Respondent.
Warwickshire.	William Chandler, the younger, Appellant; John Ratcliff and Another, Respondents.
Gloucestershire.	The Queen on the Prosecution of the Churchwardens, &c., of Mangotsfield, Respondents; The Churchwardens, &c. of Tiverton, Appellant.
Surrey.	The Queen on the Prosecution of the Parish of St. Mary, Lambeth, Respondents; The Governor and Committee of the Licensed Victuallers Society, Appellants.
Hampshire.	The Queen on the Prosecution of the Mayor, &c., of Southampton *v.* The Commissioners acting under 43 Geo. 3, c. 21, and 50 Geo. 3, c. 168.
Worcestershire.	The Queen *v.* Isaac Aulton.
Devon.	The Queen *v.* Thomas Facey.
Leeds.	The Queen *v.* The Leeds, Bradford, and Halifax Junction Railway Company.
Northamptonshire.	The Queen *v.* The Inhabitants of Banbury, Oxfordshire.
Gloucestershire.	The Overseers of East Dean, Appellants; John Everett, Respondent.
Dover.	Stephen C. Tucker, Appellant; Rowland Rees, Respondent.
Cheshire.	The Queen *v.* William Pickford.
Warwickshire.	The Queen *v.* The Guardians of the Cambridge Union and The Inhabitants of the Parish of St. Edward.
Chester.	The Queen *v.* The Inhabitants of the Parish of Ruyton of the Eleven Towns, Shropshire.
Bedfordshire.	Francis Davis, Appellant; John Toller, Respondent.
Birmingham.	The Queen on the Prosecution of the Town Council of Birmingham, Respondent; The Birmingham Waterworks Company, Appellants.
Cheshire.	William Tunstall, Appellant; Jane Lloyd, Respondent.

SPECIAL PAPER.

Demurrer.	Aubert *v.* Gray.
Special case.	Gordon *v.* The North Staffordshire Railway Company.
"	Cazenove and Another, Assignees, &c. *v.* Lister, P. O. &c.

This Court will hold Sittings on Tuesday the 27th, and

Wednesday the 28th days of November inst., and will at such Sittings proceed in disposing of the cases then pending in the Crown and Special Papers.

Common Pleas.

NEW CASE.—MICHAELMAS TERM, 1860.

DEMURRER PAPER.

Special verdict. Marshall *v.* The Bishop of Exeter.

Exchequer of Pleas.

Sittings at Nisi Prius in Middlesex and London before the Right Honourable Sir FREDERICK POLLOCK, Knt., Lord Chief Baron of her Majesty's Court of Exchequer, after Michaelmas Term, 1860.

Middlesex.

Tuesday	Nov.	27	Special juries and common juries.
Wednesday	„	28	
Thursday	„	29	
Friday	„	30	
Saturday	Dec.	1	
Monday	„	3	
Tuesday	„	4	
Wednesday	„	5	
Thursday	„	6	
Friday	„	7	
Saturday	„	8	

London.

Monday	Dec.	10	Special juries and common juries.
Tuesday	„	11	
Wednesday	„	12	
Thursday	„	13	
Friday	„	14	
Saturday	„	15	
Monday	„	17	
Tuesday	„	18	
Wednesday	„	19	
Thursday	„	20	
Friday	„	21	
Saturday	„	22	
Monday	„	24	

The Court will sit at ten o'clock.

There will be a second court for the trial of common jury causes when necessary.

NEW CASES.—MICHAELMAS TERM, 1860.

SPECIAL PAPER.

Appeal under 20 & 21 Vict. c. 43	The Queen *v.* Youle.
Dem.	The Welland Railway Company *v.* Berrie.
„	Lyall and Another *v.* Edwards and Another.

NEW TRIAL PAPER.

Guildford.	Terry *v.* Reynolds.
Nottingham.	Searson, Administrator, &c., *v.* Robinson.

ENDORSEMENT OF CHEQUES BY PROCURATION.—The following observations upon this subject are extracted from the city article in the *Times* of the 20th instant:—The question raised some time back as to the responsibility of bankers in paying checks drawn to order on the signature of a person pretending to hold a procuration, is likely to remain without a definitive settlement. The facts which induced public attention to the matter were as follows:—An action was brought against the Bank of England to recover the amount of a check drawn payable to order, and endorsed by a person purporting to sign by procuration from the payee, but which procuration was denied. The claim was based upon the view that the 19th section of the Act 16 & 17 Vict. c. 59, which protects bankers from responsibility in paying checks purporting to be endorsed by the payee, did not extend to checks purporting to be endorsed by another person by procuration. The action came on for trial at the London sittings in July last, when Mr. Baron Martin held, without argument, that the enactment referred to extended as well to cases of endorsement by procuration as to those purporting to be by the payee in person, the object of this proceeding being to obtain a decision of the full Court upon the question of law in the current term. It appears, however, that the plaintiff has decided not to carry the case further, and that the law must, therefore, remain in its present unsatisfactory state. At the same time it may be remarked that few persons can doubt that the immunity to the bankers conferred by the Act was intended to be complete. The clause which, in contradiction to the entire spirit of the statute law of the kingdom, exempts bankers from a liability to which all the rest of the community are bound to conform, furnishes the worst example of petty class legislation witnessed in recent times, but so long as it is permitted to remain it will be advisable for the public to regard it in all its stringency.

The Commissioners of the Board of Inland Revenue have decided that, according to the recent statute 23 and 24 Vic., c. 90, persons may pursue and kill hares by coursing with greyhounds, or by hunting with beagles or other hounds, in Ireland, as well as in England and Scotland, without a game certificate.

A gentleman, an old Harrovian, has just given £1,000 to the governors of the Harrow School. The interest is to form a prize or scholarship for such a scholar as shall distinguish himself by his attainments in scriptural knowledge.

Births, Marriages, and Deaths.

BIRTHS.

COLLIER—On Nov. 18, the wife of John F. Collier, Esq., Barrister-at-Law, of a daughter.

ELCUM—On Nov. 18, the wife of Hugh W. Elcum, Esq., Solicitor, of a son.

GRIDLEY—On Nov. 15, the wife of H. Gillett Gridley, Esq., Barrister, of a son.

HANSELL—On Nov. 15, at Norwich, Mrs. P. E. Hansell, of a son.

POWER—On Nov. 16, the wife of David Power, Esq., Q.C., of a daughter.

STOKER—On Nov. 21, the wife of W. C. Stoker, Esq., Solicitor, of a son.

WHITE—On Nov. 21, the wife of Fredk. T. White, Esq., of Lincoln's-inn, Barrister-at-law, of a son.

MARRIAGES.

BENNETT—SHEBBEARE—On Nov. 17, William Henry, son of the Rev. Henry Bennett, of the Hall, Sparkford, Somerset, to Helen Charlotte, daughter of Charles John Shebbeare, Esq., of Lincoln's-inn, Barrister-at-Law.

JOHNSON—HICKS—On Nov. 8, William Johnson, Esq., to Lydia, eldest daughter of the late Christopher Hicks, Esq., Solicitor, of Shrewsbury.

LOVIBOND—HASELL—On Nov. 17, at Neuchatel, Switzerland, Matthew Lovibond, Esq., of Burrow-bridge, Somerset, to Anne Hasell, daughter of Mrs. Elizabeth Hunt, of Blomfield-road, Paddington, and widow of the late William Hasell, Esq., Solicitor, formerly of Cheltenham.

DEATHS.

BODEN—On Nov. 20, aged 40, Catherine, the wife of George Boden, Esq., Barrister-at-Law.

BUTT—On Nov. 11, aged 63, George M. Butt, Esq., Q.C., formerly M.P. for Weymouth.

GIBSON—On Nov. 10, Mr. Robert Gibson, for fifteen years clerk in the office of Henry Story, Esq., Solicitor, Newcastle-on-Tyne.

GUNNING—On Nov. 12, at Ashcombe, aged 69, Elizabeth, widow of the late John Francis Gunning, Esq., of Bath, Barrister-at-Law.

HARLE—On Nov. 15, at Burley, near Leeds, Wm. Henry, youngest son of H. B. Harle, Esq., Solicitor, of Leeds.

MOSS—Recently, Bernhard Martin, youngest son of William Henry Moss, Esq., Solicitor, Hull, in the fifth year of his age.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

ASSENDER, JOSEPH, Cheesemonger, New-road, St. George's-east, JOSEPH JAMES ASSENDER, Grocer, Bermondsey, Borough, and GEORGE HENRY ASSENDER, Cheesemonger, St. George's-east, £2,850 Reduced Three per Cents.—Claimed by JOSEPH JAMES ASSENDER, and GEORGE HENRY ASSENDER.

BROWN, SOPHIA, Spinster, Woodstock, Oxon. £600 Reduced Three per Cents.—Claimed by HANNAH EVANS, wife of George Evans, and JANE CALDWELL, wife of Samuel Caldwell, administratrixes.

MANFIELD, ANN, Spinster, Dorchester, £900 Consols.—Claimed by WILLIAM MANFIELD, the Administrator.

MARTHAM, THOMAS JOHN, Esq., Shenfield, Essex, and JOHN ATKINS, Solicitor, White Hart-court, Lombard-street, £61 6s. 8d. Consols.—Claimed by JOHN ATKINS, the survivor.

MARTIN, EDWARD HALL, Land Agent, Hennull, Nantwich, and SAMUEL BOLSHAW, Farmer, Church Minshull, Middlewich, £345 9s. 1d., New Three per Cents.—Claimed by EDWARD HALL MARTIN, and SAMUEL BOLSHAW.

Heir at Law and Next of Kin.

Advertised for in the London Gazettes and elsewhere.

COOPEY, JAMES, late of Bristol, Wheelwright, who died on or about the 25th day of July, 1851. Next of kin to apply to the Solicitor for the Treasury, Whitehall, London.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

	English Funds.	
	Bank Stock	224
	3 per Cent. Red. Ann..	91⅞
	3 per Cent. Cons. Ann.	93⅝
	New 3 per Cent. Ann..	92
	New 2½ per Cent. Ann.	77⅛
	Consols for account ..	93⅝
	India Debentures, 1858.	96½
	Ditto 1859.	..
	India Stock	..
	India 5 per Cent. 1859..	103⅛
	India Bonds (£1000) ..	..
	Do. (under £1000).....	..
	Exch. Bills (£1000)...	5 dis.
	Ditto (£500)....	5 dis.
	Ditto (Small) ..	5 dis.

Shrs.	Railway Stock.	
Stock	Birk. Lan. & Ch. Junc.	83
Stock	Bristol and Exeter....	96
Stock	Cornwall	6⅜
Stock	East Anglian	17½
Stock	Eastern Counties	52
Stock	Eastern Union A. Stock	40
Stock	Ditto B. Stock	29
Stock	Great Northern	111½

Shrs.	Railways—*Continued.*	
Stock	Ditto A. Stock	111⅛
Stock	Ditto B. Stock	134
Stock	Great Western	72
Stock	Lancash. & Yorkshire	114⅜
Stock	London and Blackwall.	61⅛
Stock	Lon. Brighton & S. Coast	113½
25	Lon. Chatham & Dover	52
Stock	London and N.-Wstrn..	99⅝
Stock	London & S.-Westrn.	93½
Stock	Man. Sheff. & Lincoln..	47½
Stock	Midland	132½
Stock	Ditto Birm. & Derby	106
Stock	Norfolk.....	55
Stock	North British	62⅜
Stock	North-Eastn. (Brwck.)	102½
Stock	Ditto Leeds	59
Stock	Ditto York	88½
Stock	North London.....	104
Stock	Oxford, Worcester, & Wolverhampton ..	..
Stock	Shropshire Union	51
Stock	South Devon	44
Stock	South-Eastern	84½
Stock	South Wales	66
Stock	S. Yorkshire & R. Dun	79
25	Stockton & Darlington	40½
Stock	Vale of Neath	63

London Gazettes.

Windings-up of Joint Stock Companies.

FRIDAY, Nov. 23, 1860.

LIMITED IN BANKRUPTCY.

PATENT STARCH COMPANY, LIMITED.—Creditors to prove their claims on Dec. 7, at 11.30; Basinghall-street. Com.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Nov. 20, 1860.

ELSTON, HENRY, Gent., 89, Park-street, Grosvenor-square, Middlesex. Lucas, Solicitor, 20, Great Marlborough-street. Jan. 15.

FARR, LOUISA, Spinster, 3, Southcott-place, Bath. Stone, Chamberlain, & King, Solicitors, Bath. Dec. 31.

PEEK, HENRY HOWARD, Gent., formerly of Kingsbridge, Devonshire, and afterwards of 21, Wickham-place, Lewisham, Kent, but late of Auckland, New Zealand. Ellis, Parker, & Clarke, Solicitors, 2, Cowper's-court, Cornhill, London. Feb. 1.

WOODRIFF, SARAH, Widow, Greenwich, Kent. Hallet, Executor, Navy Agent, 14, Great George-street, Westminster. Jan. 1.

FRIDAY, Nov. 23, 1860.

BARNARD, WILLIAM, Miller, Farmer, Land Agent, & Valuer, formerly of Shottisham, Norfolk, and late of Bracon Ash, Norfolk. Winter, & Son, Solicitors, Norwich. Dec. 31.

BARRON, GEORGE, Innkeeper, Upper Wortley, Leeds. North & Son, Solicitors, 9, Park-row, Leeds. Jan. 21.

BROOKS, HARRIET, Spinster, formerly of Westmorland-place, Southampton-street, Camberwell, Surrey, and late of 18, Clarence-place, Camberwell. Lewis & Watson, Solicitors, 25 Clement's-lane, London. Jan. 5.

DIXON, GEORGE, Agent, Newcastle-upon-Tyne. Mather & Cockcroft, Solicitors, 14, Grey-street, Newcastle-upon-Tyne. Jan. 24.

FRANCIS, JAMES OUGHAM, Surgeon, Ipswich, Suffolk. Alfred & Abraham Kershaw Francis, Executors, Colchester. Dec. 17.

GOODSON, Miss HARRIETT, 18, Bedford-place, Clapham, Surrey. Burchell Hayne, & Hall, Solicitors, 24, Red Lion-square, Holborn, Middlesex. Dec. 15.

JEFFERSON, THOMAS, Gent., formerly of the Excise Office, Old Broad-street, London, late of Devonshire-street, Queen-square, Middlesex. Remnant, Solicitor, 52, Lincoln's-inn-fields. Jan. 24.

KINGDON, MARY, Widow, 29, Imperial-square, Cheltenham. Rains, Solicitor, 15, Fish-street-hill, London. Dec. 20.

MCCALLAN, JOHN, Tailor, 41, Thurloe-square, Old Brompton, Middlesex, and 5, St. James-street, Piccadilly. Carew, 45, Bloomsbury-square, London. Dec. 31.

ORCHARD, THOMAS, Gent., Hatton-garden, and Finchley, Middlesex. Anderson. Solicitor, 30, Stonegate, York. Dec. 26.

ROSSELLI, PELLEGRINO, Merchant, formerly of Mortimer Villas, De Beauvoir Town, and 43, Lime-street, London, but late of 28, Paul's Grove, Middlesex. Coles, Administratrix, 26, St. Paul's Grove Middlesex. Dec. 19.

TANNER, ALFRED, Master Mariner, formerly of Stanley-street, Pimlico, Middlesex, and late of Wellington-place, Walworth-common, Surrey. Champion, Solicitor, Moira-chambers, 17, Ironmonger-lane, Cheapside, London, Dec. 31.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Nov. 20, 1860.

COVEY, JOHN, Carpenter & Joiner, Highfield, South Stoneham, Hants. Covey *v.* Covey, V.C. Wood. Dec. 10.

CRAUFURD, WILLIAM PETRIE, Adjutant-General & Deputy Paymaster-General of Her Majesty's Forces, formerly of Mount-street, Grosvenor-square, Middlesex, and of Upper Berkeley-street, Portman-square, same county, and late of Paddington, same county. Robertson *v.* Craufurd, V.C. Kindersley. Jan. 3.

LAKE, JOHN, Sugar Planter, formerly of the Island of Trinidad, West Indies, and late of Tulse-hill, Brixton, Surrey. Lake *v.* Lake, V.C. Kindersley. Feb. 8.

LUBBOCK, SOPHIA, Eaton, Norwich. M.R. Dec. 15.

PAUL, CHARLOTTE ARCULARIUS, Spinster, Orpington, Kent. Chaffers *v.* Chaffers, V.C. Kindersley. Dec. 15.

SEAMAN, JOHN, Bixley, Norfolk, Seaman *v.* Seaman, V.C. Stuart. Dec. 20.

WILLIAMS, CHARLES, Cowkeeper, Park-road, Paddington, Middlesex. Atkins *v.* Williams, V.C. Kindersley. Dec. 8.

FRIDAY, Nov. 23, 1860.

BUCKLEY, JOHN, Gent., Upper Mill, Saddleworth, Yorkshire. Buckley *v.* Whitehead, M. R. Dec. 15.

DAVIES, JOHN LLOYD, Esq., Blaendyffryn and Allityrodin, Cardiganshire. Phillips *v.* Davies & Others, M. R. Dec. 22.

MAYER, JOSEPH, Gent., Hanley, Stoke-upon-Trent, Staffordshire. Johnson *v.* Abington, M. R. Dec. 17.

PRATT, JOSEPH, Farmer & Grazier, Potters Marston, Leicestershire. Pratt *v.* Pratt, V. C. Kindersley. Jan. 3.

RICKARD, SOPHIA, Saffron Walden, Essex. Rickard *v.* Robson, M. R. Dec. 17.

Assignments for Benefit of Creditors.

TUESDAY, Nov. 20, 1860.

BALLARD, HENRY JAMES, Tailor & Outfitter, Southampton. *Sol.* Sharp, Mason, & Sharp, Southampton. Oct. 22.

BRAY, RICHARD, Tailor and Draper, Pottergate-street, Norwich. *Sol.* Sadd, Theatre-street, Norwich. Oct. 22.

CURRAN, ROBERT, Tailor & Draper, Accrington, Lancashire. *Sol.* Jackson, Chancery-place, Manchester. Oct. 30.

MOSS, EPHRAIM, Shopkeeper, Mossley, Lancashire. *Sol.* Toy, Ashton-under-Lyne. Nov. 9.

SMYTH, HENRY, & SAMUEL SMYTH, Coach Masters, Portsea, Southampton. *Sols.* Lowe & Marshall, Portsea. Nov. 15.

TOWNSEND, BENJAMIN, Brewer, Hastings, Sussex. *Sols.* Beecham & Son, St. Leonards. Nov. 14.

WHITE, JOHN, Gravesend, Kent. *Sol.* Reed, 3, Gresham-street, London. Nov. 5.

FRIDAY, Nov. 23, 1860.

ANDREWS, GEORGE, Tailor. 9, Cork-street, Westminster. *Sols.* Lindsay & Mason, 84, Basinghall-street Oct. 26.

COBDEN, JOHN, Builder, The Bricklayer's Arms, Bedford-street, Seven Sisters'-road, Holloway, Middlesex. *Sol.* Jewitt, 138, Leadenhall-street, London. Nov. 20.

EVANS, WILLIAM, Tailor & Draper, Shoplatch, Shrewsbury. *Sol.* Gordon, Shrewsbury. Oct. 23.

HOLEYWELL, WILLIAM HENRY, Gunmaker, Peterborough, Northamptonshire. *Sol.* Rutland, Peterborough. Oct. 29.

HOOPER, WILLIAM FREDERICK, Builder, Oakley-square, Chelsea, Middlesex. *Sols.* Wild P Barber, 10½, Ironmonger-lane, Cheapside. Nov. 6.

JOHNSTON, GEORGE, Draper, Liverpool. *Sol.* Husband, 18, Basnett-street, Liverpool. Oct. 15.

MADDISON, WILLIAM, Boot & Shoe Maker, Horncastle, Lincolnshire. *Sols.* L. & W. Thompson, York. Oct. 31.

MATRAVERS, STEPHEN FLETCHER, & HENRY BAILY. Drapers, 83, Southgate-street, Gloucester. *Sol.* Jones, 15, Size-lane, London. Nov. 12.

MOORE, JAMES, Painter & Glazier, Hay, Breconshire. *Sol.* Thomas, Hay, South Wales. Oct. 20.

PRATT, HENRY ROBERT, Cook & Confectioner, Ryde, Isle of Wight. *Sol.* White, Ryde. Nov. 10.

PEARCE, WILLIAM, Grocer, New Brentford, Middlesex. *Sols.* Wright & Bonner, 15, London-street, Fenchurch-street. Oct. 25.

PICKSTOCK, ANN, Milliner, 94, Bold-street, Liverpool. *Sols.* Langford & Marsden, 59, Friday-street, Cheapside. Nov. 1.

POWELL, JAMES, Boot & Shoe Maker, 106, Commercial-street, Newport, Monmouthshire. *Sol.* Farr, Newport.

RUSSELL, FREDERICK, Boot & Shoe Maker, Folkestone. *Sol.* Minter, Folkestone. Oct. 29.

STAMMERS, JOHN EASTTY, Broker & Hardwareman, Ipswich. *Sol.* Aldous, Ipswich. Nov. 1.

VINING, CHARLES MOGG, Baker, Wincanton, Somersetshire. *Sol.* Balch, Bruton, Somersetshire. Nov. 19.

Bankrupts.

TUESDAY, Nov. 20, 1860.

ANSELL, EDWARD, Draper, 37, South-street, Manchester-square, Middlesex. *Com.* Evans: Nov. 27, and Dec. 28, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Jones, Size-lane, London. *Pet.* Nov. 19.

AUBERT, ALFRED, & CHAMPNEYS POWELL, Ship and Insurance Brokers & Wine Merchants, 17, St. Mary Axe, London (Partridge & Co.). *Com.* Evans: Nov. 30, and Dec. 28, at 12; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Hughes, Kearsey, & Masterman, Bucklersbury. *Pet.* Oct. 10.

BROWNING, JOHN, Grocer & Cheesemonger, Corn, Flour, & Coal Dealer, 1, Northumberland-terrace, Bagnigge-wells-road, Middlesex. *Com.* Holroyd: Dec. 1, and Jan. 1, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Lawrance, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* Nov. 14.

GODFREY, WILLIAM HENRY, Bookseller & Stationer, Hart-street, Henley-on-Thames, Oxfordshire. *Com.* Fonblanque: Nov. 30, Jan 1, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Peek & Downing, 10, Basinghall-street, London, and Lediard, Henley-on-Thames. *Pet.* Nov. 15.

JENNINGS, JOHN, Printer, Gough-square, Fleet-street, London. *Com.* Fane: Dec. 1 & 27, at 12.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Van Sandau & Cumming, 13, King-street, Cheapside. *Pet.* Nov. 10.

JENNINGS, WILLIAM OWERS, Horse Dealer, Uggeshall, Suffolk. *Com.* Fane: Dec. 1 & 28, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* White, Borrett, & White, 6, Whitehall-place, or Crabtree & Cross, Halesworth, Suffolk. *Pet.* Oct. 30.

LEACH, JOHN, Manufacturer, Bingly, Yorkshire. *Com.* Ayrton: Dec. 10, and Jan. 7, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Weatherhead & Burr Keighley, or Bond & Barwick, Leeds. *Pet.* Nov. 13.

NORTH, THOMAS, Contractor, 1, Edwin-place, Brighton. *Com.* Goulburn: Nov. 30, and Dec. 31, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* Nov. 16.

PHILLIPS, EDWARD, Boot & Shoe Maker, Pontypool, Monmouthshire. *Com.* Hill: Jan. 1, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Smith, Vassal, & Pope, Bristol. *Pet.* Nov. 7.

PRITCHARD, JAMES, Saddler & Harness Maker, and late Innkeeper, Newnham, Gloucestershire. *Com.* Hill: Dec. 4, and Feb. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sol.* Wilkes, Gloucester. *Pet.* Nov. 17.

SOLOMON, JAMES, Grocer, 41, Blackfriars-road, Surrey. *Com.* Holroyd: Dec. 4, and Jan. 1, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Hodgkinson, 17, Little Tower-street, London. *Pet.* Nov. 19.

STEDMAN, JOHN BURK, Surgeon & Apothecary, Cinderford, East Dean, Gloucestershire. *Com.* Hill: Dec. 3, and Jan. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Whatley, Newnham; or Abbot, Lucas, & Leonard, Albion-chambers, Bristol. *Pet.* Nov. 17.

TRANCHARD, SARAH, Widow, Wellington, Somersetshire. *Com.* Andrews: Dec. 5, and Jan. 2, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Lovibond, Bridgwater; or E. J. H. W. Clarke, Exeter. *Pet.* Nov. 7.

WHELDON, DAVID, Iron Ore Merchant & Coal Merchant, Northampton. *Com.* Fonblanque: Nov. 29, at 11; and Jan. 1, at 1; Basinghall-street. *Off. Ass.* Graham. *Sols.* Metcalfe, Solicitor, 4, Furnival's-inn, Holborn; and Becke, Northampton. *Pet.* Nov. 19.

FRIDAY, Nov. 23, 1860.

BARTON, THOMAS, Publisher, Newsvender, & Advertising Agent, 35, Wellington-street, Strand (Abbott, Barton, & Co.) *Com.* Evans: Dec. 6, at 1.30; and Jan. 8, at 11; Basinghall-street. *Off. Ass.* Bell. *Sols.* Linklaters & Hackwood, Walbrook. *Pet.* Nov. 22.

BASSETT, DAVID, Corn Merchant, Uxbridge, Middlesex. *Com.* Goulburn: Dec. 5, at 1; and Jan. 7, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Ford & Lloyd, 4, Bloomsbury-square, London. *Pet.* Nov. 17.

BINKS, WILLIAM, Painter & Paper Hanger, Kingston-upon-Hull. *Com.* Ayrton: Dec. 12, and Jan. 16, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Holden & Sons, Kingston-upon-Hull. *Pet.* Nov. 16.

HAWKES, JOHN, Builder, of the Lodge, Hornsey-rise, Hornsey-road, Middlesex. *Com.* Goulburn: Dec. 3, at 11; and Jan. 7, at 2; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Greatorex, 59, Chancery-lane, London. *Pet.* Nov. 21.

HENSHAW, CHARLES CHRISTOPHER, Mast and Block Maker, 5, Stony-lane, Tooley-street, Surrey. *Com.* Evans: Dec. 6, at 12.30; and Jan. 8, at 12; Basinghall-street. *Off. Ass.* Bell. *Sol.* Reed, 1, Guildhall-chambers. *Pet.* Nov. 21.

LAURENT, GUSTAVE, Coffee-house Keeper, 5, Leicester-square, Middlesex. *Com.* Fane: Dec. 7, at 12.30, and Jan. 11, at 1.30: Basinghall-street. *Off. Ass.* Whitmore. *Sol.* D. P. Hindley, 10, Old Jewry-chambers, Old Jewry. *Pet.* Nov. 15.

NORTH, JOSEPH, Carrier & Contractor, Montague-street, Brighton. *Com.* Goulburn: Dec. 5, at 12.30, and Jan. 7, at 2.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Linklaters & Hackwood, 7, Walbrook, London. *Pet.* Nov. 13.

PARTRIDGE, JOHN CHARLES, Boot & Shoe Manufacturer, 21, Langley-place, Commercial-road, Middlesex. *Com.* Fane: Dec. 7, at 11.30, and Jan. 11, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Harrison & Lewis, 6, Old Jewry. *Pet.* Oct. 6.

PRITCHARD, JAMES, Saddler & Harness Maker, and late Innkeeper, Newnham, Gloucestershire. *Com.* Hill: Dec. 4, & Jan. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sol.* G. P. Wilkes, Gloucester. *Pet.* Nov. 17.

REES, THOMAS, Ironmonger, Castle Bailey-street, Swansea, Glamorganshire. *Com.* Hill: Dec. 4, and Jan. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Girling, & Press, Bristol. *Pet.* Nov. 22.

RUSSELL, GEORGE, Hotel Keeper, Leamington Priors, Warwickshire. *Com.* Sanders: Dec. 12, and Jan. 16, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Sherwood, Leamington, or Hodgson & Allen, Birmingham. *Pet.* Nov. 14.

SILVESTER, BENJAMIN, Draper, Stretford New-road, Hulme, Manchester. Dec. 6 & 27, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Sutton, Marsden-street, Manchester. *Pet.* Nov. 19.

SMITH, WILLIAM JOYCE, Commission Agent, Newcastle-upon-Tyne. *Com.* Ellison: Dec. 4, at 11.30; Jan. 10, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Joel, Newcastle-upon-Tyne, or Mathews, Carter, Bell, & Hoyle, 102, Leadenhall-street, London. *Pet.* Nov. 16.

WELLS, JAMES, Toy Dealer, Bold-street, Liverpool. *Com.* Perry: Dec. 5, at 12; and 24, at 11: Liverpool. *Off. Ass.* Morgan. *Sols.* Harvey, Jevons, & Harvey, 12, Castle-street, Liverpool; or Steinberg, 61, Watling-street, London. *Pet.* Nov. 16.

WHITFIELD, HENRY, Linen and Woollen Draper & Laceman, 111, Tottenham Court-road, Middlesex. *Com.* Goulburn: Dec. 5, at 12; and 31, at 2; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Stopher, 36, Coleman-street, London. *Pet.* Oct. 19.

WOODHALL, ABNER, Felt Manufacturer, Barns Cray, Kent. *Com.* Holroyd: Dec. 7, at 2; and Jan. 8, at 1; Basinghall-street. *Off. Ass.* Lee. *Sols.* Ashurst, Son, & Morris, 6, Old Jewry, London. *Pet.* Nov. 21.

BANKRUPTCIES ANNULLED.

FRIDAY, Nov. 23, 1860.

GUTTMANN, ISAAC, Watchmaker, Jeweller, and Silversmith, Sheffield. Nov. 17.

POVEY, JOSEPH, Innkeeper, Warwick. Nov. 19.

POWLES, THOMAS, Hosier & Shirt Maker, 24, Milk-street, Cheapside, London, and 7, Hackney-road, Middlesex. Nov. 19.

RIDLEY, RALPH EBRINGTON, Merchant, 34, Great Saint Helen's, Bishopsgate-street, London, and 26, Broad-chare, Newcastle-upon-Tyne (John Ridley & Sons). Nov. 21.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Nov. 20, 1860.

ABRAHAM, BENJAMIN, Jeweller, Fore-street, Taunton, Somersetshire. Dec. 6, at 12; Exeter.—BRIGNALL, JONATHAN, Dyer, Manchester. Dec. 14, at 12; Manchester.—BRIMELOW, JOHN, RICHARD DANIELS, & SAMUEL DANIELS, Silk Manufacturers, Bedford, Lancaster. Dec. 14, at 12; Manchester.—CHALMERS, JOHN, Tea Dealer & Draper, Cirencester, Gloucestershire. Dec. 20, at 11; Bristol.—GILKS, CHARLES HENRY, Ironmonger & Gun Manufacturer, 3, Union-row, Tower Hill, and 337, Wapping, Middlesex. Dec. 20, at 12; Basinghall-street.—GREGG, GEORGE, Currier & Leather Seller, Sheffield & Wath-upon-Dearne, Yorkshire. Dec. 15, at 10; Sheffield.—GROSE, NICHOLAS MALE, Wine & Spirit Merchant, Wadebridge, Cornwall. Dec. 6, at 12; Exeter.—HASELL, JAMES, Soap & Candle Manufacturer, Bristol. Dec. 13, at 11; Bristol.—HEARD, DAVID, Jun., Smack Owner, Carpenter, & Builder, Barking, Essex. Dec. 13, at 11; Basinghall-street.—HUNT, WILLIAM, Silk & Cotton Manufacturer, 118, Market-street, Manchester, and of Tongue, near Middleton, Lancaster. Dec. 14, at 12; Manchester.—JONES, GEORGE WORRALL, Banker, Crickhowell, Breconshire. Jan. 10, at 11; Bristol.—PALMER, THOMAS, & SAMUEL PALMER, Drapers, 30, Old Town-street, Plymouth. Dec. 3, at 12.30; Plymouth.—RAWLE, GEORGE, Tanner, Porlock, Somersetshire. Dec. 13, at 12; Exeter.—ROLLS, JOHN JAMES, Grocer & Ironmonger, Cerne Abbas, Dorset. Dec. 13, at 12; Exeter.—ROSS, JOHN, Draper, Truro, Cornwall. Dec. 13, at 12; Exeter.—SAMPSON, JAMES, Picture Dealer, Carver and Gilder, and Printseller, 10, Park-street, Bristol. Dec. 13, at 11; Bristol.—SCHEMBRI, GIUSEPPE LUIGI, Merchant, 150, Leadenhall-street, London (Portelli Schembri & Co.) Dec 20, at 11; Basinghall-street.—SHEWBROOKS, WILLIAM, Builder, Taunton, Somersetshire. Dec. 5, at 12; Exeter.—STONE, ROBERT, Innkeeper, Cerne Abbas, Dorsetshire. Dec. 5, at 12; Exeter.—SUTER, GEORGE THOMAS, Confectioner, Weymouth & Melcombe Regis, Dorsetshire. Dec. 5, at 12; Exeter.

FRIDAY, Nov. 23, 1860.

DILWORTH, JOHN, ROBERT MORLEY ARTHINGTON, & ROBERT BIRKETT, Bankers, Lancaster. Dec. 18, at 12; Manchester. Sep. est. of John Dilworth, same time.—ELLAM, GEORGE, Woollen Draper, 27, Upper-street, Islington, Middlesex. Dec. 18, at 11.30; Basinghall-street.—HARRIS, THOMAS JARVIS, Mercer, Plymouth, Devon. Dec. 31, at 12.30; Plymouth.—HOLME, ANTHONY, Ship Owner, Commercial-wharf, Old Swan-lane, Upper Thames-street. Dec. 18, at 2; Basinghall-street.—MATISON, SYLVESTER, Butcher & Ship Store Dealer, 60, Regent-road, Liverpool. Dec. 14, at 11; Liverpool.—MCDONALD, JOHN CAMPBELL, & ANDREW THOMPSON HONEYMYN DALZIEL, Wine and Spirit Merchants, & Licensed Victuallers, Liverpool. Dec. 17, at 11; Liverpool.—GASKELL, HENRY BROADBENT, Broker, Liverpool. Dec. 13, at 11; Liverpool.—LAMBERT, MILES, Tailor & Draper, Liverpool. Dec. 17, at 11; Liverpool.—MARRIS, WILM, Nottingham. Dec. 20, at 11; Nottingham.—M'MANUS, ROGER DIVINE, Apothecary, St. Austell, Cornwall. Dec. 19, at 12; Exeter.—MERSON, JOHN, & THOMAS BRECK INGRAM, Glass Manufacturers, St. Helens Lancashire (John Merson & Co.). Dec. 20, at 11; Liverpool. Same time, separate estate of John Merson.—PARRY, DANIEL BEST, Whitesmith, Locksmith, & Bell Hanger, Liverpool. Dec. 17, at 11; Liverpool.—PHILIPSON, JOSEPH, Milliner & Dealer in Fancy Goods, Newcastle-upon-Tyne. Dec. 18, at 11.30; Newcastle-upon-Tyne.—POOLE, LEWIS ROBERT, & SAMUEL BRYAN, Boot & Shoe Manufacturers, 504, New Oxford-street, Middlesex. Dec. 5, at one, Basinghall-street.—RUSHTON, JOHN, Plasterer and Cementer, Plaster of Paris and Cement Manufacturer, Carlisle, Cumberland. Dec. 18, at 12; Newcastle-upon-Tyne.—STEVENS, JOHN LEE, Dealer in Iron, 1, Fish-street-hill, London. Dec. 17, at 1.30; Basinghall-street.—SWANN, JOHN WESLEY, Indian Rubber Manufacturer. Dec. 19, at 12; Manchester.—TOYNBEE, EDWARD, Agricultural Merchant and Manufacturer (Edward Toynbee & Co.) Dec. 5, at 12; Kingston-upon-Hull.—TURPIN, WILLIAM, Draper, 16, Drake-street, Plymouth. Dec. 31, at 12.30; Plymouth.—WALE, ALFRED, Hosier, Nottingham. Dec. 20, at 11; Nottingham.

LAW STUDENTS' DEBATING SOCIETY,
AT THE LAW INSTITUTION, CHANCERY LANE.

This Society meets every TUESDAY EVENING, for the Discussion of Legal and Jurisprudential Questions.

QUESTIONS FOR DISCUSSION.

For Tuesday, November 27th, 1860. President—Mr. LAWRANCE.

XC.—Should judicial officers be authorised in Criminal Cases to interrogate the accused?

Mr. MATTHEWS is appointed to open the debate, and Messieurs HALE, W. WEBB, and A. H. MILLER to speak on the question.

For Tuesday, December 4th, 1860. President—Mr. WINCKWORTH.

259.—A. being assignee of a lease demises for the whole of his term at an increased rent. Can he recover such rent by distress? Barrett *v.* Rolfe, 14 M. & W. 348; Pollock *v.* Stacey, 9 Q. B. 1033.

Affirmative—Mr. MACKRETH and Mr. TREDGOLD.
Negative—Mr. EYLES and Mr. H. E. BATT.

For Tuesday, December 11th, 1860. President—Mr. WINGATE.

260.—Is a Railway Company, which has taken all usual precautions to prevent the escape of sparks from their locomotives, responsible for damage occasioned by a fire arising from such sparks? Vaughan *v.* The Taff Vale Railway Company, 7 Weekly Reporter, 130; 8 Weekly Reporter, 549; 4 Jurist, N.S. 1302; 5 Jurist, N.S. 899.

Affirmative—Mr. O. L. HILLS and Mr. CHAMPION.
Negative—Mr. ELEY and Mr. LE RICHE.

For Tuesday, December 18th, 1860. President—Mr. GREEN.

XCI.—Is the Foreign Policy of the present Government worthy the confidence of the Country?

Mr. PLASKETT is appointed to open the debate, and Messieurs J. PEACHEY, Junr., CRUMP, and T. HEWITT to speak on the question.

The SOCIETY will ADJOURN until TUESDAY, 8th JANUARY, 1861.

Members will be good enough to send in questions.—Copies of the Rules, and all requisite information, will be furnished by the Secretary, with whom gentlemen desirous of becoming Members are requested to communicate.

GEO. L. WINGATE, Secretary,
9, Copthall-court, E.C.

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